THE
ORATIONS
OF
CICERO,

Tranſlated into ENGLISH.

CONTAINING,

I. ORATION for *Roſcius* of *Ameria*, accuſed of murdering his FATHER.

II. For *C. Rabirius*, accuſed of TREASON againſt the PEOPLE.

III. For KING *Dejotarus*, accuſed of a PLOT against *Cæſar*

IV. For *L. Murena*, Conſul Elect, upon an Impeachment for PUBLIC CORRUPTION.

V. For *P. Quintius*, upon a Caſe of BANKRUPTCY.

VI. Againſt *L. Calphurnius Piſo* upon his Vices and Miſmanagements both in Public and Private.

By WILLIAM GUTHRIE Eſq;

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পুস্তকালেজ ফোল্ডলিয়ম

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PREFACE

I SHOULD not have ſwell'd this Volume with a PREFACE, had I not been indiſpenſibly obliged to it, from a Motive of *Gratitude* to the *Public*, and of *Juſtice* to my *Author*.

THE Preſumption of a Writer unknown in the learned World, to atttempt a Work which Men of Learning had almoſt unanimouſly look'd upon as impracticable, could have been juſtified by nothing but the *Succeſs* it has met with from the *Public*: A *Succeſs*, which, as I had not the *Vanity* to *expect*, ſo I muſt own, with ſome Concern, that I wiſh I had beſtowed more *Labour* to

deſerve. When I firſt undertook this Work, I fix'd my Eye upon this Principle, that the great Difficulty of tranſlating the ORATIONS of *Cicero*, lay in riſing to the *Pomp* of his *Expreſſion*, the *Roundneſs* of his *Periods*, and above all the *Paſſion* of his *Sentiments*. I imagined that to ſucceed in theſe, was to conquer the main Difficulty of tranſlating *Cicero*: I therefore fixed upon ſome of the moſt beautiful Paſſages of the ORATIONS I was to tranſlate, and by too great Application to do *Juſtice* to them, I have been accuſed of giving too little Attention to ſome other *Duties* of a faithful Tranſlator.

THIS is a Charge I ſhould have been aſhamed to have mention'd, had not the generous Encouragement I have met with from the Public, been a Proof they were convinced, that it was always in the Power of the Tranſlator of the Volumes already publiſhed to diſcharge the *mechanical Part* of his Undertaking. In this Volume I have applied with equal Attention to *all the Labours* of Tranſlation. I became the better qualified for this, by tranſlating, in the intermediate Time, our Author's Dialogues *De Oratore*, in which I can ſay with ſome Satisfaction, I cannot accuſe myſelf, as a Tranſlator, of one Overſight or Miſtake in the Senſe. Had I begun with

that

that Work inſtead of the ORATIONS, the Volumes already publiſhed would have been more finiſhed, and muſt have come abroad under the ſame Advantages with the Volume I now give the Public.

THE ingenuous Confeſſion I have now made, will, I hope, clear me from the Imputation of Vanity, when I declare, that tho' I have heard of Objections to the two firſt Volumes, I never have met with one that was ſo well founded in itſelf, or came recommended with the Authority of any Name, that deſerved either *Notice* or *Anſwer*. Men of ſuch Learning as are capable of making Objections, know the Difficulties of a Work of this Kind, and that the real Defects that this laboured under, could not proceed from *Ignorance* or *Incapacity*, but from *Inattention*, and a *miſtaken Diſregard* to minuter Circumſtances, both which, as they knew a little Experience would *correct*, ſo their good Nature led them to *overlook*. I ſhould have but ill diſcharged my Debt of Gratitude for ſuch *Indulgence*, had not I endeavoured to the utmoſt to make Amends in the *ſucceeding* Part of the Work, for thoſe Omiſſions which may have happened in the *preceding*. . In the following ORATIONS, therefore, I have applied myſelf equally to the *critical*, as to

the *tranſlating* Part. I have por'd for the *leſſer*, as well as *aſpir'd* to the *higher* Beauties of my Author. I have endeavour'd to trace him thro' every hidden Alluſion of Expreſſion, to vindicate his Senſe from the *Duſt*, to ſnatch it from the *Trifling*, and to clear it from the *Dawbing* of Commentators. I have endeavoured to profit from the *Labours* of learned Men, but to avoid their *Prejudices*; and ſenſible how ſeldom that Learning which is recommended merely by the Merit of *Academical Qualifications*, is applicable to the Purpoſes of Civil Life in a free Country, I have, in all the Notes that relate to our Author's political Character, endeavoured to throw Light upon the *Hiſtory of his Life*, and not to compile an *Apology for his Conduct*.

THE better to ſucceed in this, I have all along conſidered my Author in his Character, as a *Stateſman*, a *Gentleman*, and a *Scholar*. The firſt is, at beſt but *doubtful*, the ſecond is *eminent*, and the third is *amiable*. In Government, *Irreſolution* may have the ſame bad Effects as *Treachery*. I am ſorry to ſay it, but it appears that our Author, tho' an excellent *Senator*, was but an indifferent *Patriot*; and tho' always an Advocate for the *Government*, he ſeems often to have loſt Sight of the *Conſtitution* of *Rome*. When we read the

Hiſtory

History of his Times, we are but too apt to condemn the Exceſſes of Oppoſition to the Senate and leading Men, without reflecting on the fundamental Violations which the Liberty of the People, and the Security of their Property had ſuffered from both. We ought therefore to conſider the Circumſtances of thoſe Conjunctures, when *Oppoſition* becomes *neceſſary*, and *Rebellion loſes its Name*. Our Forefathers knew Conjunctures of that Kind in this Country, but the Fortune of the People of *Britain* has been the very Reverſe of that of the *Romans*. The Struggles *of the People here* have always met with *Succeſs*, and have always found *Advocates*; In *Rome*, tho' they were often *ſucceſsful*, they were at laſt finiſhed by *abſolute irretrievable Slavery*, till it became *dangerous*, nay *criminal*, under the beſt of their ſucceeding Princes, in any Writer to diſſipate thoſe Colours, which *Adulation* and *Intereſt* have thrown upon their Hiſtory.

As our Author, from his firſt entering upon public Life, was a Party in all the Tranſactions of his own Times, it is *unjuſt* to form a deciſive Notion of public Meaſures, Perſons or Characters, from his Writings; eſpecially from any Thing ſaid in the following ORATIONS. And this is a Precaution ſo far from

weakening, that it ſtrengthens the Foundation of *Hiſtorical Credibility*; it only ſends the Reader back to Facts, which enables him to reaſon, *a priori*, from the Juſtneſs of Meaſures, and to form his Judgment of Characters from the Cauſe they eſpouſed. If I find, for Inſtance, that the People of *Rome*, from the Confeſſion of our Author, from the concurring Teſtimonies of all Writers, and from the Nature of their Conſtitution, had not only a *natural*, but a *poſitive* Right to the Benefit of *Agrarian* Laws, I am warranted by Hiſtorical Credibility to look upon this as an indiſputable Fact. Therefore, when I ſee them ſtruggling for the *Enjoyment of theſe Privileges*, I am bound in *common Juſtice*, to think them *in the right*, and thoſe who oppoſe them *in the wrong*: It being impoſſible for us, at this Diſtance, to judge *of the Expediency of Conjunctures*, eſpecially from the Repreſentations of one immediately intereſted to oppoſe them. I might give other numberleſs Inſtances from our Author's own Writings, and from the Hiſtory of his Times, to juſtify the Liberties I have taken, in ſeveral Obſervations I have made upon the following Orations. But I ſhall conclude what I am to ſay on that Subject, by obſerving, that when I ſee a juſtifiable Meaſure purſued, and all the Reaſon that I know for oppoſing that Meaſure, muſt be gathered from the Repreſentations

ſentations of the other Party, with whom there is *no Difference as to Facts*, common Senſe obliges me to be very cautious and diſtruſtful in believing the Repreſentations of that Party, and look upon them as Colourings deſign'd to *heighten the Beauty* of his own *Features*, and to *give a ſtronger Relief* to the *Deformity* of his Antagoniſt.

HAVING ſaid thus much with Regard to that Part of our Author's Character, which is moſt liable to Cenſure, I come now to that which has deſervedly been the Object of *Love and Eſteem* in all Ages. His Faults call for our *Pity*, his Virtues for our *Admiration*. There is a certain Degree both of *Temptation* and *Diſtreſs*, that puts a Man in a *Situation* to which the *Fortitude of Human Nature* is but ſeldom *equal*: It was this Situation that always betrayed our Author into his *political Miſcarriages*; but in the other Lights of Life, how *amiable*, how *endearing*, and I had almoſt ſaid how *venerable* is his Conduct! It is with Pleaſure therefore, that we conſider him in the two other Characters I have mentioned, I mean thoſe of a *Gentleman* and a *Scholar*. The *tendereſt* Huſband, the moſt *dutiful* Son, the moſt *affectionate* Parent, the *fineſt* Gentleman, the *ſincereſt* Friend, the moſt *agreeable* Companion, in his Conduct may find a Model for their own. His Nature

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was endued with the *ſofteſt Compaſſion*, his Underſtanding with the *quickeſt Diſcernment*, his Manner with the *nobleſt Addreſs*; and, if we conſider him as an Author, we cannot help thinking that *Cicero* is but another Word for *Learning itſelf*. But above all, the ORATIONS he has left behind him are ſo exquiſitely beautiful, that from them, more than from any other Work, we may be able to judge of the *Helps* which *Learning* borrows from *Wit*, the *Advantages* which *liberal Education* gives to *extenſive Genius*, the *Beauties* which *luxuriant Fancy* lends to *ſolid Judgment*, and the *Graces* which *tender Paſſions* communicate to *public Virtue*. It is from this Pattern, that we can beſt ſtudy by what Degrees *Literature* riſes into *Erudition*, *Erudition* improves into *Knowledge*, and *Knowledge* reduces *Obſervation* into *Practice*, by applying all her *Stores* to the Improvement of Society, and the Advantage of the Public.

SUCH are the Benefits which the Public may receive from reading our Author's Works, eſpecially his ORATIONS; but the Nature of a PREFACE will not diſpenſe with my Silence as to the particular ORATIONS tranſlated in this Volume. In theſe, a Reader of any Reflection, will find excellent Matter, beſides the Language and the Learning they contain. In that

for

for *Roſcius* of *Ameria*, he will ſee the diſmal State of a Government in which the Sword gives Law, ſuſpends the natural Functions of the Conſtitution, and cuts out the Road to boundleſs Barbarity and Proſcriptions. He will learn to *feel for human Nature*, when oppreſſed by the *Inſolence of Power*, ſtripp'd by the Hand of Rapaciouſneſs, and, what is worſt of all, labouring under the *unmerited Imputation* of *unnatural Guilt*. From theſe Reflections he will learn in his own proper Sphere of Life, to defend, and to ſtrengthen the Freedom of that Conſtitution under which he lives, and to guard againſt the firſt Appearance of thoſe Meaſures in his own Country, which entail'd ſuch laſting Miſeries upon *Rome*.

In the Oration for *Murena*, he will perceive the *Jealouſy* which the greateſt Men in *Rome* entertained of *Corruption in public Offices*. He will be pleaſed to ſee that no Character however *great*, no Merit however *diſtinguiſhed*, could ſcreen even the ſuſpected from a fair Trial by the Laws of his Country. In that for *Rabirius*, he will obſerve the Effects of that natural Tendency, which a violated Conſtitution has to revert to *its firſt Principles*. He will there find an Attempt of the People to call to Account a Perſon diſtinguiſhed for public Services, for having, tho' at thirty Years Diſtance,

obeyed

obeyed the Senate and the Magiſtracy, in a Decree which the People thought *fundamentally affected their Privileges.*

IN the ORATION for *Dejotarus*, he will admire the *generous Friendſhip* of our Author in *defending*, and the *noble Spirit* of *Cæſar* in *pardoning*, that Prince. He will learn the fatal Effects of private Diſſentions in the greateſt Families, and that there is no Slave ſo mean, who may not, ſome time or other, find the Way to reſent an injurious Treatment, be the Hand from which it proceeds, ever ſo high.

IN the ORATION for *Quintius*, he will remark how many Fences the Laws of *Rome* had plac'd round *the Enjoyment of private Property*. At the ſame Time he will perceive, that no Precaution can ſufficiently guard the Innocent and the Unſuſpecting, againſt Ambition and Avarice in a Party, or Corruption and Partiality in a Judge; and he will find that all theſe receiv'd their Sanction and Support from the *fundamental Invaſions*, that had been made upon *public Liberty*. In the ORATION againſt *Piſo*, the Reader will ſee the Neceſſity which thoſe in high Stations are under of tempering the *Affairs of Government* with *Purity of Manners*, and the Wiſdom of not giving their Enemies a Handle of rendering their public Conduct

duct deſpicable and odious, by the Recital of their *perſonal Vices*.

IN the Notes upon the ORATION for *Quintius*, I have been the more explicite, as no Piece that I know of in the *Latin* Language either *deſerves* or *requires* more *Illuſtration*: It turns upon a very important Point in the Civil Law; it has ſuffered much from the Injuries of Time, but more from the Gloſſes of Commentators. In all the other Notes, I have endeavoured to ſettle the Meaning of my Author, according to his own Authority. This is a Method I am determined to follow in the ſubſequent Part of this great and difficult Work, which I will endeavour to finiſh with all the Diſpatch that Accuracy will admit of.

WILL. GUTHRIE.

ARGU-

ARGUMENT
OF THE
ORATION
FOR
ROSCIUS of *Ameria.*

THIS Oration was delivered when our Author was but 27 Years of Age, and is a Proof that whatever Improvements he afterwards made, with regard to his Voice and Manner, by his Studies in Greece, *he received but little as to his Eloqueni The Occaſion of this Oration was as follows: The Revolution of the* Roman *Government, under* Sylla, *produced a general Maſſacre of the oppoſite Party, by the Name of a* Proſcription. *The unbounded Licentiouſneſs of the Times, in ſeveral Inſtances, extended this Cruelty indiſcriminately to all Parties, under the Pretext of* Rebellion to the Government: *And this Charge was made good in Proportion as the perſonal Intereſt of the Proſecutors was* prevailing. *Amongſt other Inſtances of this kind, the Caſe of* Sextus Roſcius *of* Ameria *was remarkable. His Father had long been engaged in a Family-Quarrel, with two of his Townſmen, and of the ſame Family, the one* Titus Capito Roſcius, *the other* Titus Magnus Roſcius. *As the old Gentleman* Sextus Roſcius *made a principal Figure in his own Corporation of* Ameria, *ſo he was very much regarded and careſs'd by ſome of the greateſt Noblemen in* Rome. *This led him frequently to that City, and his Abſence*

ARGUMENT.

ſence from Ameria *was the leſs inconvenient to his Family-Affairs, becauſe his Son* Sextus Roſcius, *having a great Turn for Country Affairs, was very careful and aſſiduous in improving the Family Eſtate.*

The old Man, however, was murdered at Rome, *and his Eſtate bought by* Chryſogonus, *an inſolent Favourite of* Sylla's, *for next to nothing. He again diſpoſed of it in favour of the two* Roſcii, *the declared Enemies of the old Man in his Lifetime. This created a ſtrong Suſpicion that they were his Murderers; and they fearing that the* Deed of Sale *might not be found good in Law, contrived firſt to have the Deceaſed enroll'd among ſt the Number of the proſcrib'd; and to prevent any Interruption either in their Claim or Poſſeſſion, they got one* Erutius, *a Hackney-Proſecutor, to accuſe his Son* Sextus Roſcius *of having murdered his Father.*

The great Power of the Proſecutors, who were ſupported by Chryſogonus, *deterred the greateſt Orators of* Rome, *at that Time, from undertaking the Defence of the Accuſed: Our Author however, boldly engaged in it, and has ſo managed his Pleading, that it appears rather an* artful Accuſation *of the other two* Roſcii, *than a* Defence of the Accuſed. *This Cauſe was tried by* Fannius, *who was Prætor, and Judge of criminal Cauſes; the other Judges were of the Senatorian Order, who had then the only Power of judging. It happened under the Conſulate of* L. Sylla, *and* Q. Metellus, *and in the Year of* Rome 673.

M. T.

M. T. CICERO's

ORATION

FOR

ROSCIUS of *Ameria*,

Accuſed of killing his FATHER.

I AM ſenſible, my Lords, you are ſurprized, that, in a Cauſe, countenanced by the Preſence of ſo many Advocates *, diſtinguiſhed by their Eloquence and Quality, ſo vaſtly my Superiors in Experience, Capacity and Rank, I ſhould appear as Council for the

The PREAMBLE to this ORATION is very artful; *Cicero* ſpeaks like a young Man, who is reſolved to riſk every Thing in order to make a Figure at the Bar; at the ſame Time, he gives us an excellent Picture of the Jealouſy that reigns amongſt political Parties, who apply every Thing to their own Cauſe, and will ſuffer no Man to be *neutral*, who is conſiderable enough to do them either *Service* or *Hurt*.

* *Advocates.*] There was a Difference betwixt an Advocate and a Counſel; Advocates, (ADVOCABANTUR) were

Accuſed. For tho' every Man, whom you ſee here on this Occaſion, is ſenſible that a Charge, complicated by *unprecedented* Guilt, ought to be repelled; yet they are all deterred by the *Danger of the Times* from undertaking that Office. Thus their *Preſence here* is owing to the Duties of their Profeſſion,* but their *Silence*, to their *Fear of Danger*.

How then! Am I the boldeſt of the profeſſion? By no Means: Am I more officious than others? No: I hope I ſhall never be ſo greedy even of that Praiſe as to wiſh to pilfer it from another. Why then do I ſignalize myſelf by undertaking the Cauſe of *Sextus Roſcius*? Becauſe, had any one of thoſe great and eminent Perſons, who are now preſent, touch'd, as they muſt have done, upon the Situation of public Affairs;† the moſt innocent Expreſſions would have

were the Friends of a Party, and *called into Court*, having a Bench allotted for themſelves, on which they ſate all the Time of the Trial, but never ſpoke; they only made an Appearance, to ſhew the Intereſt and Credit of the Party they eſpouſed. The *Patroni* were the Council, and *Cicero* expreſſes *himſelf* as ſuch, by mentioning his *riſing up* in Diſtinction to the Character of an *Advocate* who kept ſtill ſitting. Mr. *Kennet* is groſly miſtaken here.

* *Duties of their Profeſſion.*] Tho' I have tranſlated the Word *Officium* here in a confined Senſe, yet the Reader may be pleaſed to know, that among the Republicans of *Rome*, it was the Duty of every Man of Eminency, whether a profeſſed Lawyer or not, to defend his Friend, either as an *Advocate* or a *Counſel*. For he could not hope to riſe in the State but by an aſſiduous Practice at the Bar.

† *As they muſt have done upon the Situation of the publick Affairs.*]

have been aggravated and improved into a dangerous Tendency. But whatever I can ſay, be it ever ſo full or ſo free, can never have the like Conſequences, or the like Effects upon the Public. The Quality and Fortunes of theſe Noblemen will ſuffer no Word of theirs to reſt in Obſcurity, no more than their Experience for Reputation and Wiſdom will admit, that any unguarded Expreſſion ſhould paſs as the Effect of inconſiderate Heat. But, ſhould any Thing I throw out be too unguarded, it will reſt in Silence thro' my Obſcurity in the State; or be pardoned in regard to the Inexperience of my Years: Though at the ſame Time, I muſt take notice, that this Government has, of late, loſt not only the *Quality* of *Pardoning*, but the *Habits* of *Juſtice*.*

THERE is another Reaſon, which is, that perhaps the Applications which have been made to others to ſpeak upon this Occaſion, have been urged in ſuch a Manner as to leave it in their

Affairs.] There is a very ſtrong Inſinuation here, and a very juſt one. *Sylla* had advanced a very worthleſs Fellow to be one of the firſt Men in the Government. This Fellow, by taking Advantage of a Revolution which *Sylla* had effected, murdered the Father of our Author's Client, and ſeized his Eſtate. There was a Neceſſity that this ſhould be ſpoke to, as CHRYSOGONUS juſtified himſelf under SYLLA's Authority.

* *Not only the Quality of Pardoning, but the Habits of Juſtice*.] *Cicero* expreſſes this Sentiment in the following Words,

Option to comply or to decline, without their violating any Engagement; whereas I was forced into this Character by Men, whoſe Friendſh p

Words, *Non modo ignoſcendi ratio, verum enim cognoſcendi conſuetudo jam de civitate ſublata eſt.* This Paſſage ſeems not to have been *rightly*, or at leaſt *fully*, underſtood by the accurate *Facciolati*, who refers it to *Sylla*'s Proſcriptions, becauſe, *ſays he, Men were then puniſhed without being heard in their own Defence.* But I am apt to think, that *Cicero* had other Affairs in his Eye. *Sylla* had deprived the *Roman* Knights of the Power to judge, and had likewiſe abridged the Tribunitial Authority of impeaching any Perſon, were his Station ever ſo high in the Government, before the People. (See the Oration for *Cæcilius*, where he complains of theſe two Alterations in the Conſtitution.) Therefore, I muſt be of Opinion, that the *Conſuetudo cognoſcendi* was *ſublata* in this Senſe, notwithſtanding all the Commentators have reſtrained it to the former: This is a Reflection extremely becoming *Cicero*, who was himſelf the Son of a *Roman* Knight; and while the Power of judging was veſted in the *Equeſtrian* Order, and that of impeaching in the *Tribunitial*, the public Liberty of *Rome* had a ſtrong Barrier.

While I am upon this Subject, it can be no impertinent Digreſſion to obſerve, that *good Senſe and ſtrong natural Parts*, with an *honeſt Intention*, generally fall almoſt upon the ſame Expedients for the Service of Mankind in all Ages and Countries however diſtant. *Gracchus* obſerved the great Hardſhips which the *Roman* Knights, who were the Men of Property in *Rome*, laboured under, by not having the Privilege *of being tried by their Peers*, therefore had the Courage and Virtue to inveſt the Power of judging in the *Equeſtrian Order*. By this Means, the Commons of *Rome* were tried *by a Jury of their own Peers*, while the Senate had the Management of all the public Affairs of Government. This Diviſion betwixt the *legiſlative* and *executive* Authority, brought the Conſtitution to ſo equal a Poiſe, as might have rendered it *immortal*, had not the Senate choſen rather to ruin their C untry, than

to

ſhip had a Right to command me; Men, for whom a Principle of Gratitude will never ſuffer me either to forget their Favour, to under-

value to ſubmit to this legal and reaſonable Reſtraint of their own Power.

It may be worth the while here to obſerve, that the Form of Government of *Rome* having been originally *monarchical*, it was a very great Overſight, upon the Alteration of that Form into that of a Republic, not to adapt every *ſubordinate Branch* of Power to the *ſame Conſtitution*. The veſting the Senate with the Power of judging the Commons, was plainly a *regal Inſtitution*: And an *Alteration* of it upon the Commencement of their Liberty would have ſaved all the Struggles betwixt the People and the Senate, which afterwards enſued. But upon the Footing that the *Roman* Judgments ſtood until the Days of *C. Sempronius Gracchus*, their Conſtitution was plainly a Piece of Patch-work. As I intend to treat of this Subject more fully in another Place, I ſhall conclude this perhaps too long Remark with obſerving, that our Author tells us, that while the Power of judging was in the *Roman* Knights, where it continued for about fifty Years, their Conduct was irreproachably diſintereſted, *ſine ullâ, ne tenuiſſimâ quidem, ſuſpicione acceptæ pecuniæ*. As I intend in the Courſe of theſe Notes to ſupply the Defects, or correct the Miſtakes of ſome Authors of our own Country, who being very commonly in young Gentlemens Hands, are apt to miſlead more univerſally, and therefore their Miſtakes are more dangerous. I muſt obſerve what Mr. *Kennet ſays on this Head, in his* Chap. 36, Book III. of *Roman* Antiquity, *That* Florus *makes* C. Sempronius Gracchus *to have appointed ſix hundred Senators, and three hundred Equites for the Management of Judgments; but,* ſays he, *this ſeems to belong to the* Servilian *Law, if not totally a Miſtake.* Mr. *Kennet* ſeems to have been totally miſtaken himſelf in this Paſſage; for I cannot find any ſuch Paſſage in *Florus*. *Florus* indeed, in the Place referr'd to by Mr. *Kennet*, tells us ſomething of this with regard to *M. Livius Druſus*, who enacted, *Ut æquâ parte judicia penes ſenatum & equeſtrem ordinem eſſent.*

value their Authority, or to disobey their Orders.

SUCH are the Reasons why I appear as Counsel in this Cause. I appear, my Lord here, not because my *Talents* give me a Title to the *greatest Pre-eminence*, but because my *Obscurity* renders me *least* obnoxious to *Danger*. I appear, not as sufficient of myself to defend the Cause of *Roscius*, but that *Roscius* may not be absolutely destitute of Assistance. It may be asked, from whence proceeds this Terror, this mighty Dread which prevents such Numbers of our greatest Men * from undertaking, as usual, the Defence of the Life and the Fortunes of a Fellow-Subject? No Wonder that you are ignorant of this, since the real Motives for bringing the Affair to a Trial has been hitherto industriously concealed by the Prosecutors.

WHAT then, it may be asked, are those Motives? The young *Lucius Cornelius Chrysogonus*, † the high and mighty Director of *Rome* in our Time, has bought, as he says, the personal Estate of my Client's Father, which was worth 50,000*l.* of the brave and eminent *Lucius Sylla*, whom

* *Such Numbers of our greatest Men.*] He means those Men of great Families whom he mentions afterwards and who appeared as Advocates for *Roscius*.

† *Lucius Cornelius Chrysogonus.*] The old Scholiast gives us a very humorous and a very sensible Hint here which

whom I name with the greateſt Reſpect upon this Occaſion, for 16*l.* And now, my Lords, this Gentleman * demands of this Court, that as he has, againſt all Law and Equity, ſeized upon this large, noble Eſtate, and as the Life of my Client may give him ſome *ſmall* Trouble and Hindrance in the Poſſeſſion of it, you would rid his Mind of all Uneaſineſs and Apprehenſion upon that Account. He deſpairs of being able to keep the Poſſeſſion of ſo fair, ſo large an Eſtate, while my innocent Client is alive and uncondemned; but were he once condemned, he is in Hopes of diſſipating in *Luxury* what he has acquired by *Guilt*.

THE Prayer therefore of his modeſt Petition is, that you would Pluck out this Thorn which is inceſſantly pricking and goading his Boſom, and ſo become Acceſſories in his deteſtable Rapine. Should this, my Lords, appear to this

it may be worth the Pains to explain. Every *Roman* had properly ſpeaking three Names, *viz.* The *Nomen*, *Prænomen*, and *Cognomen*. When a Slave was made free, he gratefully took the *Nomen* and *Prænomen* of his Maſter before his own Name. This was the Caſe of this *Chryſogonus*, who had been a Slave to *Sylla*. Our Author, in this Paſſage ſpeaking of *Sylla*, takes no Notice of the Name *Cornelius* belonging to him, which was his moſt honourable Name, becauſe it was the Name of his Family, but claps it along with the Epithet *Potentiſſimus* before that of *Chryſogonus*, to render his Vanity the more ridiculous.

* *My Lords, this Gentleman.*] This, and the following Paſſage, carries on an exquiſite and beautiful *Irony*.

Court, a juſt and a modeſt Petition, give me Leave, on the other Hand, to prefer a *ſhort*, and, as I hope, a far more *equitable* Requeſt.

IN the firſt Place, I make my Suit to *Clory ſogonus*, that he will be ſatisfied with the Money and Effects of my Client, and ſpare his Life. In the next Place, my Lords, I humbly move this Court, that you will be pleaſed to check the Inſolence of Guilt, to alleviate the Miſeries of Innocence, and in the Cauſe of my Client to repel that Danger which is aimed at the Liberties of our Country.*

BUT if either a Foundation for the Charge, a Preſumption of the Fact, or even the ſmalleſt Circumſtance ſhall be found out which can ſerve as the leaſt Colour for this Indictment; in ſhort, if you ſhall find the leaſt Motive for this Proſecution beſides this Eſtate; I agree, that *Sextus Roſcius* ſhould fall a Sacrifice to the Rage of his Enemies. But if, to ſupply the Avarice of his inſatiable Proſecutor; if, that the Blood of *Roſcius* ſhould flow, as an Over-meaſure to the guilty Poſſeſſion of this fair and opulent Fortune; if theſe are the ſole Foundations of this Proſecution, is it not an Aggravation of the many Indignities you have ſuffered, that you ſhould

* *Aimed at the Liberties of our Country.*] Becauſe no Man could be ſafe from the like Practices of Power if that Proſecution met with Succeſs.

ſhould be the moſt proper Tools for giving a Sanction by your Oaths and Deciſions to thoſe Acquiſitions, which they have been accuſtomed to ſeize by Guilt and Violence? *You*, whom after your Merits had raiſed you from the Rank of *Citizens* to that of *Senators*, the Purity of your Manners have rendered worthy to be delegated by that illuſtrious Body on this Bench! for Murderers and Gladiators to apply to *You*, not only that they may be ſcreened from that Puniſhment which they ought to dread for their Crimes, but that they may depart from this Court gay and exulting in the Plunder of the innocent *Roſcius!*

THESE are Matters of ſo important, ſo dark a Nature, that I underſtand, I can neither deſcribe them with that *Propriety*,* complain of them with that *Weight*, nor exclaim againſt them with that *Freedom* which they require. For my *Capacity* can neither attain to *Propriety*; my *Years* will not admit of *Weight*, nor the *Times* of *Freedom*. I am under a further Diſadvantage, which is the deep Conſternation I now feel, ariſing from my own natural Timidity, the awful Appearance of this Court, the

* *Propriety—Weight—Freedom.*] In the Original *commode, graviter, libere.* I think I have hit upon the true Meaning of *Cicero*, though the learned *Facciolati* in explaining the Word *commode* defines it to be *vehementer & copiose.* There is however, ſomewhat of *Exaggeration* implied in the Expreſſion, as appears by what follows immediately after.

the Power of the Profecutors, and the Dangers of my Client. Therefore, my Lords, I make it my moſt humble and earneſt Requeſt, that you will receive what I have to offer with Attention and Indulgence.

IT was the high Opinion I have of your Integrity and Wiſdom, that induced me to undertake a Burthen for which I now feel myſelf unequal; a Burthen, my Lords, which, if you will lighten in the ſmalleſt Degree, I will do my beſt to bear with Pleaſure and Alacrity. But if, contrary to my Hopes,* I am abandoned by you, yet ſtill I ſhall act with Spirit; and, to the beſt of my Abilities, go thro' with what I have undertaken. For I would chuſe to be cruſh'd under the Weight of my Charge, rather than, after it was entruſted with me, throw it from me like a Traitor, or drop it like a Coward. I likewiſe, *Marcus Fannius*, earneſtly conjure you, that you would extend thoſe Virtues which formerly rendered you dear to the People of *Rome*, when you preſided † on this

* *Contrary to my Hopes.*] The Expreſſion in the Original is, *id quod non ſpero:* Tho' the *Meaning plainly is, tho' he does not fear it.* Virgil uſes *ſpero* in the ſame Senſe; *Hunc ego ſi potui tantum ſperare dolorem*, 4 Æneid. v. 419.

† *When you preſided.*] This Paſſage is very liable to be miſunderſtood in the Original: *Cicero* ſays, *Cum huic idem quæſtioni judex præeſſes.* Even the learned *Hottoman* confounds the two Offices of the *Judex Quæſtionis* and the *Quæſitor*, tho' the Conſtitutions of both are very different from

this very Queſtion, to us and the People of *Rome* on this Occaſion.

You ſee, by the Multitudes aſſembled, with what anxious Expectation this Cauſe has alarmed the People; and how keen, how deſirous the Public is, that Impartiality and Equity ſhould be reſtored to our Courts of Juſtice. This is the firſt Cauſe of Bloodſhed that has for a long Time been tried in this Court,* though many woeful, terrible Maſſacres have happened in the intermediate Time. Your Country expects of you as Prætor, that, as every Day Crimes and Murders are avowedly committed, you will proceed againſt them with the ſame impartial Severity.

GIVE me here Leave upon this Occaſion to adopt thoſe Exclamations which are common in the Mouths of Accuſers during other Trials. We

from one another. The *Judex Quæſtionis* was the chief Commiſſioner in a Court appointed by the *Prætor* for determining an Action. For the *Prætor* ſeems to have done no more than our Grand Jury; *he found the Bill*, by allowing that there was a *probabilis cauſa litigandi*, but left the Proof of it to his Court of Delegates, of which the *Judex Quæſtionis* was at the Head. Whereas the *Quæſitores* were Prætors themſelves, ſo called a *quærendo de crimine*. And *M. Fannius* ſate in the latter Capacity upon this Occaſion. We may obſerve here, that the *Quæſitores* were Judges of criminal Cauſes only, tho' *Fannius* had before a *Judex Quæſtionis*.

* *That has for a long Time been tried in this Court.*] The *Judicio de Siccariis*, that is, all Trials upon Matters of Bloodſhed were diſcontinued during the Time of *Sylla*'s Proſcription.

We intreat you, *Marcus Fannius*, and you, my Lords, to puniſh Guilt with the keeneſt Severity, to oppoſe the greateſt Courage to the moſt conſummate Audacity; and to remember, unleſs you diſcover your real Sentiments by your Deciſion in this Cauſe, that the Avarice, the Guilt, the Inſolence of Mankind will break out into ſuch Extravagance, that Men will be butcher'd, not by Stealth and in the Dark, but in this very Forum, before your Tribunal, *Fannius*, at your Feet, my Lords, and upon the very Benches of this Court. For what is there contended for in this Trial, but an Impunity of ſuch Practices? They are the Accuſers who have ſeized the Eſtate. He is accuſed, who has nothing left him but the utmoſt Diſtreſs. They are the Accuſers who have gained moſt by the Murder of *Sextus Roſcius*. He is accuſed, on whom his Death has brought not only Grief, but alſo Poverty and Want: They are the Accuſers who fain would have murdered my Client. He is the accuſed, who, even while he appears at your Bar, is obliged to have a Guard * to prevent his being butcher'd before your Eyes. In ſhort, the Voice of the Public calls aloud for Juſtice upon the Accuſers, while the Accuſed is the only ſurviving Inſtance of their bloody Practices. And, my Lords, that ye may be ſenſible

* *Have a Guard.*] This can only be meant of the Friends of *Roſcius* attending at his Trial.

ſenſible my Language is ſo far from aggravating, that it falls ſhort of their Crimes; give me Leave to lay the Matter before you as it happened: By this you will the more eaſily be able to judge of the Innocence of my Client, the Audacity of his Proſecutors, and the Miſery of your Country.

Sextus Roſcius, the Father of my Client, a Deniſon of *Ameria*,* in Blood, Rank, and Eſtate, was, by far, the firſt Man, not only in his own Corporation, but in all the Neighbourhood; at the ſame Time, he lived in the greateſt Eſteem, and the moſt amicable Intercourſe with Men of the greateſt Quality. For there ſubſiſted not only an Intercouſe of Viſits, but the ſtricteſt and moſt intimate Familiarity betwixt him and the *Metelli*, *Servilii*, and the *Scipiones*; Families, whom I name upon this Occaſion with all the Reſpect that is due to their great Quality and Diſtinction; and this

A Deniſon of Ameria.] In the *Latin*, *Municeps*, which is thus defined by *Gellius*, *lib.* xvi. c. 13. *Sunt cives Romani ex Municipiis, ſuo jure & legibus ſuis utentes; muneris tantum cum Pop. Rom. honorarii participes a quo munere capeſſendo appellati videntur nullis aliis neceſſitatibus, neque ulla Pop. Rom. lege aſtricti:* That is,

"The *Municipes* are Citizens of *Rome* who live in "Communities, and are governed by their own Forms and "Laws, but ſharing only the titulary Honours of the *Ro*"*man* People, from whence they have ſeemed to derive "their Appellations; but they are connected by no other "Relations, nor by any Law in Force among the *Romans*." Whereas the Colonies were obliged to conform themſelves to the *Roman* Laws and Conſtitutions.

this was the only Legacy he has left to his Son out of all his Eſtate. For thoſe Domeſtic Robbers having violently taken Poſſeſſion of his paternal Inheritance, left him only his Reputation and Life to be defended by the Acquaintance and Friends of his Father; who, as he all his Life-time diſtinguiſhed himſelf on the Side of the Nobility, in theſe latter Times of Trouble,* when the Honour and Exiſtence of Nobility itſelf were at Stake, ſignalized himſelf in his Neighbourhood, in ſupporting that Party with all his Intereſt, Zeal and Influence. For he judged it was but reaſonable, that he ſhould fight to ſupport the Honour of thoſe, from whom he derived thoſe Honours which diſtinguiſhed him among his own Neighbours.

WHEN Victory had declared herſelf, and we were repoſing from the Toils of War, while Proſcriptions were going on, and the Obnoxious to Suſpicion were ſingled out from every Quarter; he was at *Rome*, and appeared in all public Companies and Converſation; as rather rejoicing in the Victory of the Nobility, than dreading that it would be in the leaſt fatal to himſelf.

SOME old Differences ſubſiſted betwixt him and the two *Roſcii* of *Ameria*, one of whom I now

* *Theſe latter Times of Trouble.*] While *Marius* and *Cinna* got the better, they murdered the Nobility, but *Sylla* pretended to protect them.

now ſee ſitting upon the Bench of the Impeachers, while the other, I hear, poſſeſſes three Eſtates of my Client. Happy had it been for *his* Father, had he been able to guard againſt their Malice as effectually as he really feared it! My Lords, his Fears were but too well founded; for *Capito* and *Magnus*, the Names of the two *Roſcii*, the latter of whom is only here, are ſuch Men, that the one is thought to be an old firſt-rate Gladiator, and to have won a great many Prizes; and tho' the other had but juſt entered himſelf as Apprentice under *Capito*, when this Fray happened, he became ſo great a Proficient, that in Wickedneſs and Audacity he out-did even his Maſter.

FOR while my Client was at *Ameria*, and that ſame *Titus* at *Rome*; while the former was minding nothing but his Country Affairs, and by his Father's Orders applied himſelf only to the Improvement of his private Eſtate in the Country, and the latter was every Day at *Rome*, the old Man was killed near the Baths of the *Palatium*, as he returned from Supper.

I HOPE that this Circumſtance will give the Court a pretty broad Intimation of the Perſons againſt whom the Preſumption of this Guilt lies the ſtrongeſt. But if the Nature of the Caſe itſelf ſhould not ſwell what is now *Suſpicion*, into plain *Conviction*, I leave the Court to pronounce my Client guilty of the Charge.

UPON

UPON the Murder of the Deceaſed, one *Manlius Glaucia*, a Man of little Conſideration, the Freed-Man, the Creature, and the Dependant of that ſame *Titus Roſcius*, was the firſt who brought the News to *Ameria*, and told it at the Houſe, not of the Son of the Deceaſed, but of his Enemy *Titus Capito*; and though the Murder was committed an Hour after Sun-ſet, yet he told it at *Ameria* next Morning by Break of Day. By this Means, he muſt have driven in his Chaiſe *fifty-ſix* Miles in *ten* Hours in the Dark; that he might not only be the firſt to tell the welcome News to the Enemy of the Deceaſed, but that he might ſhew him his Blood freſh, and reeking upon the Weapon, he had juſt drawn out of his Body.

FOUR Days after, this News reached *Chryſogonus*, who was then encamped under *Lucius Sylla* at *Volaterra*: They repreſent to him the Largeneſs of the Succeſſion, and the Fineneſs of the Eſtate; for he had thirteen Farms,* almoſt all of them contiguous to the *Tiber*, without forgetting the needy, deſtitute Condition of my Client. They tell him, that if it was ſo eaſy to diſpatch a Man of ſuch Eminence and Popularity as *Sextus*

* *Thirteen Farms almoſt all of them contiguous to the* Tiber.] This appears to have been a very important Conſideration among the *Romans*, who thought an Eſtate upon the *Tiber*, both for Advantage and Pleaſure, preferable to any other Situation. In the ſame Manner as we prefer an Eſtate lying on the Bank of the *Thames* to any other.

Sextus Roſcius, it would be much eaſier to remove his plain unſuſpecting Son, who was not ſo much as known at *Rome*; they proffered to lend him their Aſſiſtance for this Purpoſe. Not to take up your Time, my Lords, they entered into a Confederacy.

AT this Juncture, the Notion of a *Proſcription* obtained ſo little, that even they who were under ſome Dread of it before, were now returning, as imagining themſelves out of all Manner of Danger; it was then that *Chryſogonus* bought at Auction the Eſtate of this Man who was ſo entirely devoted to the Intereſt of the Nobility.

THREE of his beſt Eſtates were made over to *Capito* as his Property, and he enjoys them to this Day, while that ſame *Titus Roſcius*, in the Name of *Chryſogonus*, as he ſays, ſeized the reſt. Thus a Fortune which was reckoned worth near 50,000*l.* was bought for about 16*l.* But all theſe Tranſactions, my Lords, I am convinced, were done without the Knowledge of *Lucius Sylla*.

NOR is it indeed any Wonder,* that he ſhould over-look ſome Things; ſince, at one and

* *Nor is it indeed any Wonder.*] We have here a delicate and an artful Encomium upon *Sylla*, who, no doubt, was a Man of great *Abilities*. *Cicero* very prudently introduces it here, to ſhew the Court that he made a Diſtinction betwixt the Acts of *Sylla*, and thoſe of his Followers.

the ſame Time, he is obliged to have in his Eye both what is paſt, and what is upon the Point of Execution: And ſince, in him is veſted the ſole Authority and Power of making Peace or War; as he is the Point to which the Eyes of all Mankind are directed, and the Perſon by whom they are governed; as he is encumbered with Affairs ſo important and various in their Nature, that he has ſcarce Time for breathing. This Inattention, therefore, was ſtill the more excuſable in him, as ſo many are ready to watch and to catch at every Motion of his; ſo that no ſooner can he call his Eyes to any particular Object,* than they ſeize the Opportunity of attempting ſomewhat of this Kind. Add to all this, that HAPPY as he is, yet no Man like him can attain to that Pitch of Happineſs, as amidſt ſuch a Train of Servants, not to have *one*, either Slave or Freed-man, who is a Villain.

IN the mean Time, this excellent Fellow, *Titus Roſcius*, this Agent of *Chryſogonus*, came to *America*, ſeized upon the Eſtate of my Client, while he was yet afflicted with filial Tenderneſs, and while ſome of the ſtated Funeral Duties he owed to the Memory of his Father, were unper-

* *No ſooner can he call his Eyes to any particular Object.*] The Original has it *ſimul atque ille deſpexerit*; which ſignifies, as ſoon as he begins not to be ſo attentive to the general Concern, but to let his Mind wander to ſome particular Object.

unperformed; he drove him headlong and naked, my Lords, from the Houſe of his Father, the Seat of his Anceſtors, and the Altars of his Family. He put himſelf in Poſſeſſion of a large Fortune belonging to another; and, as uſually happens in ſuch Caſes, from the greateſt Penury, he launched out into the moſt boundleſs Extravagance: He carried off a great many Effects openly to his own Houſe, but ſecreted many more; he laviſhed a great deal upon his Confederates, and ſold the reſt at a formal Auction.

THIS was ſo very ſhocking to the Inhabitants of *Ameria*, that there was nothing to be ſeen all over the City but Tears and Lamentation. For many melancholy Ideas preſented all at once; the cruel Death of *Sextus Roſcius* in the Height of Reputation and Credit in the World; the unmerited Poverty of his Son, who was ſo effectually ſtript of his large Eſtate by that lawleſs Robber, as not to have in Reverſion, even a Road to the Tomb of his Father;* the Sale of

Even a Road to the Tomb of his Father.] The learned *Hottoman* is here of Opinion, that *Cicero* ſpeaks this purely for *Aggravation*. To juſtify this, he brings in the Authority of *Pomponius*, who ſays, *Sub Tit. de Sep. Viol.* "The Law is, that the Proprietors of Lands, in which "there is a Family Burying-place, have a Right, even af"ter they are ſold, to a Paſſage to their Burying-place. "For it is provided by the Laws of buying and ſelling E"ſtates, that ſuch Proprietor ſhall have the Uſe of a Path, "free Acceſs, and ſufficient Space round the Burying"place for performing Funeral Ceremonies."

I cannot

his Goods; their villainous Poſſeſſion; their Theft, Rapines, and Profuſion. There was not a Man among them who would not have wiſhed to have ſeen them all in a Flame, rather than *Titus Roſcius* ſwaggering and domineering in the Spoils of the excellent and virtuous *Sextus*.

AN Act of their Aſſembly, therefore, immediately paſſed, that a Deputation of the ten firſt Members of their State ſhould be diſpatched to *Lucius Sylla*, to inform him of the true Character of *Sextus Roſcius*; to complain of the Wickedneſs and Injuſtice of theſe Confederates, and to beg his Interpoſition in Behalf of the Honour of the

I cannot agree in Opinion with this learned Civilian;

1ſt, Becauſe *Cicero* repeats the very ſame Circumſtance, in the Peroration, *Nec ſibi quicquam paternum ne monumenti quidem cauſa reſervavit.*

2dly, Becauſe it appears that ſuch a Reſervation of Right, as *Pomponius* mentions, muſt be expreſſed in the Deed of Sale. *Vid. Gloſſam. ad Verb.* ADEUNDORUM. *Quod eſt verum, ſi in venditione excipitur ſepulchrum, vel ſi ibi eſt publicum iter, alioqui tranſit cum prædio.——Quidam tamen dicunt tacite ſemper exceptum, quod nihil eſt.* "This is "true, provided the Reſervation is expreſſed in the Deed "of Sale, or if there is a public Road there (*for that was "another Expreſſion*) otherwiſe the Burying-place is on-"veyed with the Eſtate.—Some People ſay, that there is "always a tacit Reſervation; but there is nothing in that." This is likewiſe confirmed by many other Gloſſes, even upon the Paſſages brought by *Hottoman* to confirm his Opinion.

3dly, Becauſe *Roſcius* was not the Perſon who ſold this Eſtate to *Chryſogonus*, who had it from *Sylla* as a Forfeiture to the State; ſo that there could be no Exception of this kind; nor could *Roſcius* pretend to the common Rights that might ariſe from Bargain and Sale.

the Deceaſed, and the Fortunes of his ſurviving innocent Son.

GIVE me Leave to read the Words of the Decree which are well worthy of your Attention.

[*Here the Decree was read.*]

THE Deputies came to the Camp; and here, my Lords, there was a plain Proof of what I have already obſerved, that all theſe Crimes and Villainies were perpetrated without the Knowledge of *Sylla*. For *Chryſogonus* not only applied to them in Perſon, and *privately ſent** ſome Men of the greateſt Quality to beg that they would not go near *Sylla*; and in that Caſe they promiſed *Chryſogonus* ſhould do whatever they had a mind; for he dreaded this ſo very much, that he would have choſen to die rather than that *Sylla* ſhould have known any Thing of the Matter.

As plain Men † are apt to judge of others by the nſelves, they believed his repeated Promiſes, tha he would eraze the Name of *Sextus Roſcius* out of the Deeds, and reſign the Eſtate to the ſole Poſſeſſion of the Son, eſpecially when

* Orig. *Allegat iis.*] *Lambinus* thinks this ſhould be read *allegat ab iis qui peterent.* But he is wrong; for *allegare* is to ſend in a private Capacity, *legare* in a public one.

† *Plain Men.*] The Original has it *Homines antiqui*, "Old-faſhioned People."

Titus Roſcius Capito, who was one of the Deputation, offered his joint Promiſe for the Performance: In ſhort, they returned to *Ameria* without having made any Application. Here theſe Fellows began to poſtpone the Affair, and put it off from one Day to another. Soon after they would do nothing but trifle with them; at laſt, as may be eaſily imagined, they begun to think themſelves unſafe in the Poſſeſſion of another's Property, while he was alive; and therefore, entered into a Conſpiracy againſt the Life of this my Client here.

As ſoon as he perceived this, by the Advice of his Friends and Relations, he fled to *Rome*, and put himſelf under the Protection of *Cæcilia* the Daughter of *Nepos*,* a Lady whom I name with the greateſt Reſpect; ſhe had been, my Lords, his Father's Patroneſs, and is now a Proof of what is generally believed, *That there was once ſuch a Thing in the World as* HONOUR *and* GRATITUDE. This Lady ſheltered the deſtitute *Roſcius*, when he was driven from his Home, ſtript of his Fortune, and concealing himſelf from the Daggers and Menaces of Ruffians; ſhe ſuccour'd her diſtreſſed Gueſt after he had been given over by all the World; and it is owing to her

* Cæcilia, *the Daughter of* Nepos.] This muſt be a Miſtake; for ſhe appears from what follows to have been the Daughter of *Metellus Balearicus*, and the Siſter of Nepos.

her Courage, Honour, and Application, that he is now alive under an *Impeachment*, and not killed among the *Proſcribed*.

For after thoſe Ruffians underſtood that the Life of *Sextus Roſcius* was guarded with the utmoſt Care, and that they could have no Opportunity of executing their bloody Purpoſes; they reſolved upon a Deſign, full of Guilt and Preſumption; which was, to impeach my Client of Parricide: For this Purpoſe they muſt procure ſome hardened Impeacher, who could ſpeak ſomewhat in a Caſe upon which it was impoſſible to faſten the ſmalleſt Preſumption; and as they could not find him *actually* guilty, they reſolved to make him *politically* ſo. Their Language was, *As there had been ſo long an Intermiſſion of Trials, that therefore the firſt Man who was brought to the Bar ought to be condemned*, imagining at the ſame Time, that the Intereſt of *Chryſogonus* would terrify any Perſon from ſpeaking for *Roſcius*, or mentioning a Word of the Sale of his Eſtate, or their wicked Confederacy: That the very Imputation of ſo black a Crime as Parricide, would be ſufficient to diſpatch him without any Trouble; eſpecially as no-body would ſpeak in his Defence. This extravagant ridiculous Notion has prevailed with them to bring him to this Bar, that as he could not be aſſaſſinated by them, he might be murdered by you.

WHERE, my Lords, ſhall I begin to complain? Upon what Topic ſhall I begin to reaſon? What Aſſiſtance ſhall I crave? Or what Power ſhall I apply to for it? Shall I on this Occaſion throw myſelf upon the Juſtice of the immortal Gods, of my Country, or of this Court, to whom ſhe has now delegated the ſupreme Authority? Behold a Father inhumanly murdered! his Houſe invaded, his Goods ſeized, poſſeſſed, and plundered by his Foes; the Life of his Son attacked, by repeated Aſſaults both from Treachery and Violence! What ſeems there to be wanting to fill up the Meaſure of this Iniquity! Yet have they been ingenious enough to aggravate and improve even *that*, by forging a moſt improbable Falſhood, and bribing Witneſſes and Accuſers againſt my Client with his own Money. Thus they leave him the wretched Alternative, whether he will chuſe to be aſſaſſinated by *Roſcius*, or loſe his Life in the moſt infamous Manner by being ſowed up in a Sack [the Puniſhment of Parricides*.] They imagined that the Accuſed would be at a Loſs for Counſel: He is: But, my Lords, if Freedom of Speech and Zeal for my Client can make amends, as I hope they will in this Cauſe, for that Loſs; he is at none; for I have undertaken it. Undertaken it perhaps

* The Words in the Crotchets ſeem to have crept out of the Margin of ſome old Manuſcript into the Text.

haps from a Raſhneſs too incident to Youth; but now that I have undertaken it, by Heavens! ſhould I be encompaſſed with every Shape of Death and Danger, yet will I do my Duty in ſupporting and ſuccouring my Client. I am reſolved, I am determined, not only to ſpeak whatever I think can ſerve him, but to ſpeak it with Zeal, with Boldneſs, and with Freedom: For no Motive *can* be ſo powerful as to make my Fears get the better of my Honour.

For is there ſo infamous a Coward as to be ſilent and unconcerned at ſeeing theſe Injuries? Ye have murdered my Father, tho' he was not proſcribed; after you murdered him, you enrolled him in that unhappy Number;* by Force have driven me from my Houſe, and taken Poſſeſſion of my Eſtate. Can theſe Injuries receive any Aggravation? Are you not come in Arms, even into this Court, either to murder or to condemn the unfortunate *Roſcius*?

C. Fimbria, who lately lived in *Rome*, was of all Mankind the moſt audacious; and in the Eyes of every Man, who was not himſelf a Madman, the maddeſt. *Scævola*, a Man of

* *Enrolled him in that unhappy Number.*] I have a ſtrong Notion, that the Streſs of the Pleading againſt *Roſcius* upon this Occaſion, lay upon his Father's being proſcribed. *Cicero*, who perhaps was ſenſible he was ſo, and knew the Strength of this Argument, touches it but very ſlightly, and in ſuch a Manner as to make it ſeem to the Court, that his Client's Father was not proſcribed till after his Death.

of the greateſt Sanctity and Perfection in *Rome*, and one in whoſe Praiſe it is not now proper to run out, nor, if it were, could I ſay more of him, than now lives upon the grateful Memories of the *Roman* People; he, I ſay, was wounded at the burying of *Marius*, by means of this Madman, who finding that he was likely to recover, impeached him. When he was aſked upon what Grounds he could impeach a Perſon ſo blameleſs in his Life, that it was impoſſible to do Juſtice to the Dignity of his Character; the Wretch is ſaid to have made Anſwer, like a Madman as he was, *Becauſe* Scævola *had not received in his Body the full Length of the Dagger*. Never did *Rome* ſee any Thing more afflicting than this, excepting the Death of the ſame great Man, which brought all her Sons to Ruin and Miſery: For it was for endeavouring to *ſave them* by an Accommodation that *he* was deſtroyed.*

HAS not this Caſe ſomewhat in it exactly parallel

* *That he was deſtroyed.*] *Florus* gives us an Account of his Death in the following Words, *Quid funerum in foro, in circo, in patentibus templis? Nam Quintus Mucius Scævola, pontifex, veſtales amplexus aras, tantum non eodem igne ſepelitur.* "How many Deaths happened in the *Forum*, "in the *Circus*, in the open Temples? For *Q. Mucius* "*Scævola*, the High Priſt, bracing the Veſtal Altars, very "narrowly eſcaped being buried in the Flames." The Reader is to obſerve, that *Scævola* endeavoured to mediate betwixt the Parties of *Sylla* and *Marius*, but was murdered by the latter.

parallel to the Anſwer and the Guilt of *Fimbria*? Ye accuſe *Sextus Roſcius!* For what? Becauſe he has eſcaped out of your Hands; becauſe he would not ſuffer himſelf to be aſſaſſinated. Did the one Inſtance, as happening to a *Scævola*, beget an univerſal Deteſtation; and ſhall this Inſtance, becauſe inflicted by a *Chryſogonus*, paſs without Cenſure? Immortal Gods! What is there in this Cauſe that requires to be defended? Is there a Circumſtance in the whole, that demands either the Art of a Lawyer, or the Eloquence of an Orator? I ſhall, my Lords, lay open the whole Matter, and after laying it open, I ſhall examine it; and the Court will by that Means have an eaſy and clear Comprehenſion of the Circumſtances upon which the Streſs of the whole lies; of the Points to which I am to ſpeak; and of the Manner in which you ought to decide.

So far as I am able * to form any Judgment, there are three Circumſtances which upon this Occaſion bear very hard upon my Client: The Charge itſelf, the Audacity, and the Power of the Proſecutors. The firſt falls to the Management of *Erutius*, the ſecond to the Share of the *Roſcii*, and the laſt of Courſe, devolves upon *Chryſogonus*, whoſe Power is very

* *So far as I am able.*] *Cicero* enters now upon that Part of his Pleading which is called *Partitio*, in which he divides the Charge under its proper Heads.

ry great. I apprehend it is my Duty to ſpeak ſeverally to thoſe three Points; but not in the ſame Manner * to them all; becauſe I am obliged, by my Profeſſion, to undertake the firſt; but your Country has left the other two to you. It is my Duty to wipe off the Aſperſion of Guilt; but it remains with you to give a timely check to ſuch Audacity, to deſtroy, to confound ſuch deſtructive, ſuch inſupportable *Inſolence of Power*.

Sextus Roſcius is accuſed of murdering his Father; a Crime ſo black and deteſtable, that, by Heavens! it ſeems to be a Complication of all Guilt. For if, as the Learned have well obſerved, *Filial Piety may be wounded even by a Look*, can any Puniſhment be deviſed ſevere enough for the Crime of one, who offered to kill a Parent, for whom he is obliged, by all Laws divine and human, if there be Occaſion, to ſacrifice his own Life? What Arguments, † *Erutius*, do you imagine you muſt urge, as you are the Accuſer, to make out a Charge that is ſo monſtrous, ſo black, and ſo unparallelled, upon a Crime, which ſo ſeldom happens, that whenever News is brought that it has

* *But not in the ſame Manner.*] The Original here has an Expreſſion, *Quid igitur eſt*, which the Commentators, perhaps with Juſtice, think is miſplaced.

† *What Arguments.*] This Part of *Cicero*'s Pleading is built upon the Probability of the Charge, and is ſo extremely beautiful that it muſt ſtrike every Reader.

has been commited, it is always reckoned an ominous Prodigy? Don't you think yourſelf, *Erutius*, obliged to prove the matchleſs Audacity of the Accuſed, the Fierceneſs of his Manners, the Barbarity of his Nature, his Life one continued Courſe of Wickedneſs and Lewdneſs, and, in ſhort, a Man in every Part of his Character devoted to Murder, and diſtinguiſhed by the moſt conſummate Guilt? Yet not one of theſe Crimes have you even urged againſt *Roſcius*, in all your aggravated Charge.

Sextus Roſcius has murdered his Father: Look at the Man. Is he a young Debauchee, trained up in the Arts of Lewdneſs by wicked Men? No; he is upwards of forty Years of Age. Is he a Ruffian of Experience, harhardened in Guilt, and inur'd to Murder? No; you have heard no ſuch Character given him even by the ingenious Malice of his Proſecutor. Then Luxury perhaps, or Debt, or diſorderly Paſſions, might prompt the Wretch to this Crime? As to Luxury, *Erutius* has ſufficiently cleared him of that, when he told you, that he was ſcarcely ever known to be preſent, even at an Entertainment. Debts he never had any. And what Paſſions can we ſuppoſe to be in a Man, who, to uſe the Words of his Proſecutor's Charge, has ſpent his whole Life in the Country, and in the Improvement

of his Grounds? A Manner of living the moſt remote of all others from Ambition, and the moſt ſtrictly connected with the Practice of every Duty!

THEN what could be the Motive which impelled *Sextus Roſcius* to this frantic Action? 'Tis ſaid, that he was under the Diſpleaſure of his Father. Under the Diſpleaſure of his Father! For what Reaſon? Sure, if there is a Reaſon, it muſt needs be a juſt, a weighty, and an obvious one. For as it is contrary to all the Principles of Belief, that a Son would attempt the Life of a Father, without repeated and ſtrong Provocations; ſo, on the other Hand, it is extremely improbable, that a Father would hate his Son to ſuch a Degree, without many weighty and indiſpenſible Reaſons.

LET us therefore now reſume our Subject, and enquire what Vices an only Son could be guilty of, to give ſuch Matter of Diſpleaſure to his Father. In this Caſe it is plain, that the Son was guilty of no Vice. Muſt we impute it then to Frenzy in the Father, that he cou'd, without the leaſt Cauſe, hate the Son of his own Body? But he was a Man of the ſoundeſt Senſe*

of

* *The ſoundeſt Senſe.*] The Word in the Original is *conſtantiſſimus*, which muſt be meant as I have tranſlated it. *Cicero*, in his third *Tuſculan Diſputation*, oppoſes *Conſtans* to *Amens*, becauſe, "*Qui conſtans eſt, cum neceſſe eſt eſſe quietum*;

of any in his Time. We may therefore ſafely conclude, if neither the Father was frantic, nor the Son profligate, the Father could have no Cauſe of Hatred, nor the Son any Motive for Murder.

I DON'T know, ſays the Gentleman on the other Side, what Reaſons for Hatred did ſubſiſt; but I am convinced *there was a Hatred*; becauſe the old Man, while he had two Sons alive, kept the one, who is now dead, always about his Perſon, and confined this one to his Farms in the Country. The Inconvenience which *Erutius* was under in trumping up this malicious trifling Charge, happens to be my own Caſe in the beſt of Cauſes. He was at a Loſs for Matter on which he might build this fictitious Charge; and I am at a Loſs how to invalidate and confute Circumſtances, which are of themſelves ſo ſlight and ſo improbable.

BUT how, *Erutius!* Did *Sextus Roſcius* give the Improvement and Management of ſo many fair, ſo many profitable Eſtates to his Son by way of Puniſhment and Baniſhment? Does this look like Reaſoning? Do not Gentlemen, eſpecially of his Rank, who have Eſtates in our Country Corporations, when they

"*tum; qui quietus, perturbatione omni vacuum; ergo etiam*
"*Amentia.*"

they have Sons, always chuſe that their Sons ſhould apply themſelves to a Country Life, and employ the greateſt Part of their Pains and Time in looking after the Improvements of their Eſtates?

WAS this Son baniſhed to the Country, bred up in the Life of a Clown, and deprived of all the Elegancies of Living? What! if it ſhould appear, that my Client, during his Father's Life, was not only appointed to overſee the Improvement of his Eſtates, but was in Poſſeſſion of certain Lands appropriated to him; yet muſt ſuch a Life, becauſe it is pains-taking and rural, be branded with the Appellations of *Baniſhment* and *Diſgrace*? You may now perceive, *Erutius*, how widely different your Reaſoning is from the true Matter of Fact. You find Fault with the *general* Practice of Parents, as being *unuſual*; that which was the *Effect* of *Love*, you attribute to a *Motive* of *Diſpleaſure*; and the *Kindneſs* expreſſed by an *indulgent* Father, you conſtrue into a *Puniſhment* inflicted upon a *hated* Son. Not that you are inſenſible of theſe Abſurdities; but your Reaſoning is ſo deſtitute of all Foundation in Juſtice, that you are forced, not only to plead againſt Us, but againſt the Nature of Things, againſt the common Practice of the World, and againſt the general Senſe of Mankind.

BUT

BUT ſtill, ſay you, as he had two Sons, why did he keep the one about his own Perſon, and ſuffer the other to remain in the Country? Give me Leave, *Erutius*, to talk to you without Offence; for, I do not mean what I am about to ſay as a *Reproach*, but an *Advice*. If Fortune was ſo unkind, by never letting you come to the Knowledge of your *real* Father,* as to deprive you of all Experience of paternal Affection, ſurely Nature has left you with ſome Share of Humanity; beſides, you have ſome Fondneſs for Books, ſo that you are not quite illiterate. I will therefore, give you an Inſtance from the Stage. Do you then imagine, in the Play of *Cæcilius*,† that the old Gentleman has leſs Affection for *Eutichus* the Son, whom he keeps in the Country, than he has for *Chæreſtratus*, (I think that is his Name) whom he keeps always about his own Perſon. Do you imagine, that he kept the one always in Town, as a Mark of his Regard, and the other in the Country, as a

* *To the Knowledge of your* real *Father.*] This is as witty a ſtroke, as any we find, in either ancient or modern Comedy. Moſt Commentators ſeem to think, that this *Erutius* was a Baſtard; but there is no Occaſion for this Suppoſition, becauſe *Cicero* does not throw out this Hint by Way of Affirmation.

† *Cæcilius.*] This ſeems to have been a favourite Author among the *Romans*, and the *Ben. Johnſon* of his Age. *Cicero* has ſeveral Times introduced Paſſages from his Plays into his Pleadings. He lived about the Year of *Rome* 575.

Proof of his Diſpleaſure? But why will you run into theſe Trifles, ſay you?

I AM indeed, under no Neceſſity, ſince, to go no further, I might eaſily name you many, both of my Neighbours and Countrymen, who are very fond of having their beſt beloved Sons devoted to a Country Life;* but it is diſagreeable to give particular Inſtances of Perſons whom we all know; for one is not ſure whether the Perſons may not take it amiſs, ſhould their Names be uſed upon this Occaſion; and you are acquainted with no Character better than that of *Eutichus*, and ſurely it is nothing to the Purpoſe, whether I bring a young Man from the Stage, or from the Fields of *Veii*.† For, I am of Opinion, theſe Characters are drawn by the Poets, that we may ſee our own Manners perſonated, and the Practice of common Life repreſented. But let me recal your Thoughts and Attention to REAL LIFE. Reflect upon the Way of Life, which is moſt recommended by Fathers of Families, not only in *Umbria* and that Neighbourhood, but in theſe old Corporations. If you do this, believe me, your being deſtitute of Matter for an Indictment has forced you to lay

* *Devoted to a Country Life*] The Original has it *Aſſiduus Agricola* in the ſame Manner as *Plautus* ſays, *Aſſiduus Urbanus*. Trinum, A. 1 Sc. 2. v. 165.

† *Fields of Veii*.] The Eſtate in Queſtion lies not far from *Rome*, and is now in the Poſſeſſion of the Family of *Farneſe*.

lay againſt *Roſcius*, as a ſtrong Preſumption of his Guilt, that which the World will look upon as the cleareſt Proof of his Innocence.

BUT it is not Children only who enter into this Way of Life, by the Commands of their Parents; for I know many, and if I am not miſtaken, every one of you does the ſame, who are themſelves paſſionately fond of what belongs to the Improvement of Grounds, and who eſteem a Country Life, which you, *Erutius*, are pleaſed to mention as criminal and diſgraceful, to be the moſt engaging and moſt honourable of all others.

I WILL inſtance my Client; how much Underſtanding and Knowledge has he in Country Affairs? Inſomuch that I am informed by his Neighbours, who are all of them Men of the beſt of Characters, that you are not a greater Proficient in the Craft and Quirks of Accuſation than he is in his own Buſineſs. But as *Chryſogonus* has been pleaſed to ſtrip him of all his Farms and Grounds, I fanſy he will not be blamed, if by this Time he has both forgot the Arts, and laid aſide the Love of a Country Life. Tho' this, my Lords, be cruel and inhuman, yet will he chearfully bear it, if by your Means he can enjoy Life upon any Terms, and with his Life, his Reputation: But there is one Circumſtance he thinks quite unſupportable, which

is, that as the Number and Goodneſs of his Eſtates have led him into all his preſent Miſery, and as his having carefully improved them is now the heavieſt Charge * urged againſt him, it is not enough that his Miſery receives an Addition by his having improved them for others and not himſelf, unleſs it be ſtill aggravated by his being charged with having improved them at all.

WHAT a ridiculous Figure, *Erutius*, muſt you have made as an Accuſer, had you lived in thoſe Times when Men were brought from the Plough to be Conſuls? Surely, as you imagine it to be criminal to inſpect the Improvement of Grounds, you would have impeached as the moſt profligate and diſgraceful of all Mankind, the great *Atilius*, whom our Deputies found ſowing the Seeds with his own Hands. But truſt me, our Anceſtors had far different Notions of Him, and the other great Men of his Character. For by theſe Arts, they were enabled, from the moſt ſlender Foundation, to tranſmit to Poſterity a fair and flouriſhing Empire. They employed their utmoſt Cares in cultivating their own Eſtates, without coveting thoſe

* *Heavieſt Charge.*] In the Original the Word is *Fraus*. Our Author uſes the ſame Word to the ſame Purpoſe in ſeveral other Parts of his Writings. See the Index to the Tranſlation of *De Oratore*, where this Word is more fully explained.

thoſe of their Neighbours. By which Means they enlarged the Government, the Empire, and the Glory of *Rome*, with Lands, with Cities, and with Nations.

In what I have ſaid, I am far from comparing my Client with thoſe great Men; I mentioned thoſe Circumſtances only to ſuggeſt, that as the greateſt and moſt glorious of our Anceſtors, who all their Lives ought to have been ſitting at the Helm of Government, have employed ſome Part of their Cares and Time upon Agriculture, the Perſon whoſe Profeſſion is that of a Farmer, ought to meet with ſome Indulgence, for having ſpent his whole Life in the Country; eſpecially when it is conſidered, that to his Father nothing could be more agreeable, to himſelf more pleaſing, or in its own Nature more commendable.

The ſtrongeſt Proof then you had to produce, of the Father's Hatred againſt the Son, was, his ſuffering him to live in the Country. Have you any other Proof? *Yes*, ſay you, *the Father intended to have diſinherited him.* Now as you advance ſomewhat that is to the Purpoſe, I am all Attention: For I think, you agree, that the other Arguments are trifling and childiſh. He did not go with his Father to Entertainments: How ſhould he, when he

very ſeldom came to the Town? Scarcely any body ever invited him to their Houſes. Is there any Wonder of that, in a Man who never lived in Town, and was not in the Way of making Entertainments in his Turn?

BUT you are ſenſible that this too is trifling. Let us therefore examine that which I juſt now mentioned, and which I muſt own to be one of the ſtrongeſt and moſt ſubſtantial Proofs of Hatred. The Father intended to diſinherit the Son. I don't inſiſt upon the Reaſon, but I aſk, how came you to the Knowledge of his Intention? Tho' at the ſame Time I could oblige you to ſpecify, and go through all the ſeveral Reaſons. For a regular Proſecution upon ſo flagrant a Fact, requires that all the Vices and Crimes of the Son ſhould be laid open, which could provoke the Father ſo much, as to extinguiſh in his Breaſt even Nature itſelf; as to make him pluck up as a Weed an Affection ſo deeply rooted in the Soul; and in ſhort, to forget that he was a Father: Circumſtances, which, I conceive, never could have happened but from the greateſt Demerits on the Part of the Son.

BUT I will allow that you ſhall paſs over theſe Facts, which, by your Silence, you admit never did exiſt. Then you ſurely ought to be very full and explicit in your Proof of the Father's

Inten-

Intentions to diſinherit him. Let us ſee then what you offer why we ſhould believe it? Nothing that is real. Then forge ſomewhat that is plauſible; that you may ſave Appearances; that you may not ſeem to do what you really do, groſly inſult upon the Misfortunes of *Roſcius*, and affront the Dignity of theſe very worthy Judges upon the Bench. *He intended to diſinherit his Son*;—For what Reaſon?— *I don't know.* Did he carry his Intention into Execution? *No.* What prevented him? *He intended it.* He intended it! To whom did he expreſs that Intention? *To nobody.* Such an Accuſation, ſuch an Objection as this, my Lords, which not only is impoſſible, but not ſo much as attempted, to be proved; what is it elſe but proſtituting this Court, the Laws, and your Dignity to the Purpoſes of Paſſion and Avarice?

We all of us know, *Erutius*, that there was no Enmity ſubſiſting betwixt you and my Client, *Sextus Roſcius*. All Mankind is ſenſible why you appear here as the Proſecutor in this Cauſe: They know, that Money is your Bait. But mark the Conſequence; ought this Bait to have been ſo powerful, as to make you diſregard the Senſe of this Court, and ſet at nought the Penalties preſcribed by the *Memmian* Law?*

* Memmian *Law.*] I have ſome Doubt with Regard to the Propriety of this Name, whether it ought not to be *Remmia*

THAT Plenty of Profecutors ſhould live in a State is neceſſary for over-awing the Attempts of the Audacious. But it does not follow from this, that we ſhould *be played upon* by Profecutors. A Man may be innocent, and yet liable to Suſpicion. Tho' this is a Hardſhip upon ſuch a Man, yet ſtill I have ſome Grains of Indulgence for the Perſon who ſhall accuſe him. For when there is the leaſt Foundation for a Charge, even upon preſumptive Proof, the Perſon who urges it, does not appear to be committing a *groſs Inſult* upon the Underſtandings of Mankind, and a deliberate Injury to the Reputation of his Neighbour.

THEREFORE, we readily admit that there ought to be a Number of Profecutors, becauſe an innocent Man, if he is accuſed, may be acquitted; and the Guilty, without Accuſation, cannot be condemned. But it is more proper, that Innocence ſhould be acquitted upon Trial, than that Guilt ſhould eſcape without Impeachment. Geeſe have their Food, and Dogs are maintained in the Capitol,* upon the public Charge,

Remmian Law, which enacted, that Perſons convicted of Calumny ſhould be ſtigmatized.

* *Geeſe have their Food, and Dogs are maintained in the Capitol.*] The Commentators have here taken a great deal of Pains to render themſelves ridiculous by their Learning. They tell us, that they don't find any Mention of Dogs being maintained in the Capitol, tho' they own of Geeſe,

Charge, that they may give the Alarm in caſe of Theives. Yet, tho' it is impoſſible for them to know who is a Thief, or who is not, they ſtill give the Alarm, whoever enters the Capitol by Night; becauſe that is a ſuſpicious Circumſtance; and Inſtinct itſelf directs them to err upon the Side of Caution. But, if theſe Dogs ſhould bark in the Day-time at People who come to the Worſhip of the Gods, I think they

Geeſe, and acquaint us, upon the Authority of *Plutarch*, *Pliny*, and *Columella*, *That a Dog was annually hanged upon a Gibbet in the Capitol, as a Memorial, that the Dogs had once ſleeped, while the Geeſe gave the Alarm that the Capitol was betrayed.* One might be a little merry on this Subject; but I have two or three very good Reaſons for being of a different Opinion from them. The firſt is, becauſe I humbly conceive, *Cicero* knew more of the Matter than they did, and he has expreſly affirmed it as Fact. In the ſecond Place, it is plain, That Dogs were maintained in the *Capitol* before it was taken by the *Gauls*, and we have no Proof that they were *diſpoſted* ever afterwards. The hanging one up might only be by Way of Admonition, what they were to expect, if they betrayed their Truſt as their Predeceſſors had done; and was no improper Hint to other Species of Animals, who were intruſted as well *as thoſe poor Dogs* with public Offices. Laſtly, the Words of the old Scholiaſt, which ſeem to have been overlooked by our Commentators, are ſo ſenſible, and ſo much to our Purpoſe, that I ſhall beg Leave to tranſcribe them, *In Capitolio Canes & Anſeres cibaria ſolebant accipere. Propterea quod Anſeres nuntii ſunt hoſtium; Canes ultores; quod enim ille clamoribus nuntiant, illi morſibus vindicant.*

" In the Capitol, Dogs and Geeſe uſe to have their " Cribs; the Geeſe giving the Alarm of Enemies, and " the Dogs puniſhing them; the former diſcover them by " their *Cackling*, the latter attack them with their *Teeth*.

they ought to have their Bones broken,* because they then ſnarl without any Grounds.

THIS Caſe holds exactly with regard to Impeachments. Some of you, Gentlemen Accuſers, are of the Nature of the Gooſe; you make a Noiſe, but you are otherwiſe very inoffenſive Animals; others of you are Curs that can both bark and bite.† There you live; there are your Cribs; but you ought to direct all your Force chiefly againſt thoſe who deſerve it. This is the readieſt Way to make you extremely popular. Nay, if you ſhould at any Time bark upon a ſtrong Preſumption, I can forgive you. But if you ſhould over-act your Parts, ſo as to impeach a Man of murdering his Father, and yet not be able to tell *for what*, or in *what Manner*; in ſhort, if you ſhould bark without any Suſpicion; 'tis true nobody will break your Bones; but, if I am not miſtaken, this Bench will print upon your Foreheads,‡ that Letter for

* *Ought to have their Bones broken.*] We have another ridiculous Remark of the Commentators on this Place. The Reading in the Original is *Iis crura ſuffringantur*, which they would have changed into *ii cruci ſuffigantur*, becauſe ſay they, *a Dog was annually crucify'd in the Capitol.* Whereas it is plain, even from holy Writ, that whoever was crucified had his Legs broken; ſo that the *crura-fregium*, or the breaking of the Legs among the *Romans* was *proverbial*, to ſignify an *ignominious Puniſhment*, and the Expreſſion, as I have tranſlated it, agrees exactly with what ſoon follows, *Crura quidem nemo vobis ſuffringit.*

† Pointing to the Benches.

‡ *Print upon your Foreheads.*] It may perhaps be unneceſſary

for whoſe Sake you hate all Letters; and that too ſo legibly, as to put it for ever out of your Power to *accuſe* any Thing but your own bad Fortunes.

My good impeaching Friend, what Subject have you given me to plead upon? Nay, let me aſk you, what Grounds have you given the Court for ſuppoſing that there is in this Caſe even the ſlighteſt Preſumption of Guilt? *The Accuſed was afraid that he ſhould be diſinherited.* I underſtand you; but not a Word of the Reaſon why he ſhould be thus afraid. *But his Father intended it.* Then prove that Intention. Proof there is none; neither of his conſulting with, nor of his acquainting any body that he had ſuch an Intention, nor of any one Circumſtance that could beget the leaſt Grounds of Suſpicion in you. When you manage your Accuſation, *Erutius*, in this Manner, don't you plainly

ceſſary to obſerve to the ingenious Reader, that a quicker Turn of Wit runs through this ORATION, than is to be found in thoſe which our Author pronounced when he came to greater Maturity, both of Years and Honours. The Reaſon is obvious: *Fire of his Youth was yet undiſſipated*; he had not as yet any *Character of Dignity* to reſtrain him; and I do not doubt but ſome of my Readers will queſtion much, whether this is not the beſt Oration of his whole Works for this very Reaſon.

The Letter he hints at here was a *K* to expreſs *Kalumniator*, which was the old Way of Writing *Calumniator*, and which was burnt with an Iron into the Foreheads of thoſe who were convicted of Calumny. This Brand incapacitated any Perſon from ever acting as a Proſecutor.

plainly tell the World; *I know what I have got, but I don't know what to say. I kept my Eye upon that ſingle Principle which I had from* Chryſogonus, *that nobody would appear for the Accuſed; and that nobody at this Time would be ſo hardy as to touch upon the Sale of the Eſtate, and their Confederacy.* This was the Miſtake that brought you into this Inconveniency; for, by Heavens! you would not have opened your Mouth, had you imagined that any body was to anſwer you.

IT may be worth while, my Lords, if you have obſerved it, to reflect a little upon his Negligence in managing this Charge. I can't but think, that, when he had ſurveyed the Perſons who ſit upon theſe Forms, he enquired whether *ſuch* or *ſuch a one* was to appear for the Accuſed; but that he never once thought of Me, becauſe I had never before appeared in a public Trial: After he learned that none of thoſe were to be concerned, who were both accuſtomed, and able to appear upon ſuch Occaſions, he grew ſo very thoughtleſs in the Matter, and he ſate down, and then walked about, and ſometimes called for his Servant to order Supper, I ſuppoſe, as the Fancy ſtruck him: And behaved in ſuch a Manner, as if inſtead of being in this Court, and at your Bar, he had been in a downright Deſart.

AT length he finiſhed his Pleading: He ſate down,

down, and I roſe: He then ſeem'd quite eaſy, becauſe nobody elſe got up; I then began to ſpeak. I obſerved, my Lords, that he diverted himſelf with joking, and upon indifferent Matters, till I mentioned *Chryſogonus*, but no ſooner had I touch'd upon him, than the Gentleman ſtarted up, as if he had been in a Maze; I perceived where he was gall'd. I nam'd him again, and a third Time; I could then perceive his Creatures buzzing about here and there, up and down, I ſuppoſe to inform *Chryſogonus*, that there was a Man in *Rome* who durſt preſume to oppoſe his ſovereign Will and Pleaſure: That the Proſecution was likely to take another Turn than what he expected; that the Sale of the Eſtate was laid open; that he was moſt villainouſly pinched upon his Confederary; that no Regard was paid to his Power and Intereſt; that the Judges ſeemed to diſcover deep Attention, and the People ſtrong Reſentment.

SINCE therefore, *Erucius*, you are miſtaken, and ſince the Caſe is altered; ſince you are ſenſible, that the Cauſe of *Sextus Roſcius* is pleaded, if not with *Eloquence*, yet with *Freedom*; ſince whom you thought *would be given up*, you perceive *is defended*; ſince inſtead of *delivering over*, this Court ſeems reſolved to *judge*, let us at leaſt for once have ſome Touches of your old Skill and Craft in pleading; Confeſs frankly, that you came

came hither full of the Hopes, that you was to appear, not at a *Trial* but at a *Robbery*.—A Charge of Parricide is brought here, and the Profecutor can ſhew no Motive that could induce the Son to kill the Father.

THAT which is the firſt and principal Conſideration in all the petty Larcenies, in all the ſlight Miſdemeanors which are every Day committed and tried; *Erutius* thinks of no Importance in an Affair of Parricide: A Crime, my Lords, in which, though many concurring Circumſtances were brought to eſtabliſh a Preſumption of Guilt, yet to believe it is no eaſy Matter: It does not depend upon idle Gueſs-work; it is not to be tried upon queſtionable Evidence; nor is the Court to be determined by the Art of the Profecutor. It is neceſſary, that a long Train of previous wicked Practices, the abandoned Morals and the matchleſs Audacioufneſs of the Accuſed ſhould be proved. Nay, *Audacioufneſs* is not ſufficient, it muſt riſe to the utmoſt *Fury* and *Frenzy*. When all theſe are proved, yet the Commiſſion of the Crime muſt be eſtabliſhed by the moſt palpable and unconteſtable Proofs; the Place, the Manner; the Agents, the Time.—And unleſs the Evidence as to all theſe is full and plain, no Credit, I will venture to ſay it, can be given to ſo black, ſo deteſtable, and ſo unnatural a Charge.

GREAT is the Force of Affection, and powerful

ertul are the Ties of Blood; Nature herſelf loudly diſclaims every Suſpicion of this Kind. That one, who appears and looks like a Man, ſhould be ſo much more ſavage than a Brute, as for ever to ſhut out from the Face of Day thoſe by whom he enjoys the Beauty of Light, is a monſtrous Prodigy; eſpecially when we conſider that Birth, Bringing up, and Affection, endear even Beaſts to one another

SOME Years ago, we have heard that one *Titus Clælius* of *Tarracina*, a Man of ſome Conſideration, when he had gone to Bed after Supper in the ſame Bed-chamber with two young Gentlemen his Sons, was found with his Throat cut in the Morning: There was neither Slave nor Freed-man near, who could be ſuſpected of the Fact; the two young Gentlemen who lay near him, ſaid, that they did not ſo much as know that the Thing was done: However they were impeached of their Father's Murder. What then?—Appearances, it muſt be confeſſed, were againſt them;—What, both of them ignorant of the Matter!—Could it be ſuppoſed, that any Body would have ventured upon ſuch an Action, at a Time while his two Sons were in the ſame Bed-chamber, who muſt have been alarmed, and could have eaſily prevented the Murder?

BESIDES, there was nobody on whom the leaſt Preſumption of Guilt could be faſtened.

Yet

Yet, when it appeared to the Court, that the young Gentlemen were found aſleep, and with the Door open, they were acquitted of the Impeachment, and even of the ſmalleſt Suſpicion of Guilt. For nobody did imagine it poſſible, that one could fly in the Face of all Laws human and divine, by perpetrating ſo execrable an Action, and immediately taſte the Sweets of Repoſe; and the Reaſon is plain, becauſe they who are guilty of ſuch deteſtable Actions, are not only unable to repoſe without Concern, but to breathe without Terror.

THE Poets tell us,* that thoſe Men, who, to avenge the Death of their Fathers, killed their Mothers, were ſo haunted by the *Furies*, that they could find no Reſt; yet in this, we are told, they only obeyed the Dictates and Oracles of the immortal Gods; therefore in ſuch Perſons, even *Piety* becomes *criminal*. In ſhort, my Lords, the Meaning of the Fiction is; the Blood of a Parent fills our Veins with ſomewhat ſo ſtrong, ſome

* *The Poets tell us.*] What follows here is ſo extremely beautiful, and ſo juſt, that it muſt ſtrike every Reader, tho' I were not to inform them, that no Paſſage amongſt the Ancients has been more celebrated, either by Heathen or Chriſtian Authors. But I believe our Author would have foregone all the Glory he has received from the Juſtneſs of the Sentiment, rather than have given a Handle to our modern Free-thinkers to have preſſed him into their Service, from what he ſays in this Paſſage. The Story of *Oreſtes* and *Alcmæon* is very well known, and to be found in all the Books of Mythology.

ſomewhat ſo indelible, ſomewhat ſo awful, that if you receive the leaſt Stain of it, it is not only impoſſible to waſh it out, but it communicates Fury and Frenzy to the Brain.

For we are not to imagine, that they who were guilty of any of thoſe wicked unnatural Actions we meet with ſo often among the Poets, were actually driven about, and haunted by the burning Torches of the Furies. No; preſumptuous Guilt is the Fury that torments; an evil Conſcience, the Frenzy that rages; and ſtinging Reflection the Terror that diſtracts. Theſe, theſe are the inceſſant Boſom-Fiends that haunt the Guilty; and Day and Night avenge the Deaths of Parents upon their unnatural Children.

So enormous is the Nature of this Offence, that unleſs the *Parricide* be almoſt undeniable; unleſs the Accuſed has been in his *Youth*, an Object of *utter Deteſtation*; in his *Life*, a *Complication* of *unparalleled Guilt*, and in his *Oeconomy*, an Example of *extravagant Lewdneſs*; unleſs he has acted beyond all Bounds in his *Audaciouſneſs*, and up to Madneſs in his *Temerity*: I ſay, unleſs all theſe Circumſtances concur, the Commiſſion of the Fact is too big for Belief. Add to this, that Proofs muſt be brought of his Hatred of his Father, his Averſion to all paternal Admonition; the Wickedneſs of his Company; the Privity of his Slaves, the Fit-

neſs of the Time, and the Conveniency of the Place for committing the Action. Nay, my Lords, before the Court can give Credit to ſo deſperate, ſo deteſtable an Action, I had almoſt ſaid, that you ought to ſee the Blood of the Father reeking upon the Hands of the Son. For this Reaſon, the Severity of the Puniſhment is proportioned to the Difficulty of the Proof.

HENCE, as from many other Circumſtances, we may conclude, that our Anceſtors excelled other States in Wiſdom and civil Polity, as much as they did in War: We have a pregnant Proof of this in their deviſing a peculiar Puniſhment for this Crime; and thereby you may reflect how much in Wiſdom they excelled even the wiſeſt among other States.

ATHENS, while ſhe was an independent State, was allowed to excel in the Arts of civil Government; and *Solon*, the wiſeſt of her Citizens, was the Compiler of thoſe Laws by which ſhe is governed to this Day. When this great Man was aſked, why he enacted no Puniſhment for a Man who ſhould kill his Father? He anſwered, that he thought it impoſſible any Man ſhould be guilty of ſuch an Action. His Policy is commended; becauſe, ſay they, if he had made Proviſion againſt a Crime, which had not then been committed, it would not have looked like preventing, but ſuggeſting it. How much wiſer

were

were our Anceſtors? Senſible, that nothing was ſo ſacred as forever to be Proof againſt Violation, they deviſed a peculiar Puniſhment for Parricides, ſufficient, by its Severity, to deter from the Commiſſion of this Crime thoſe, who were inſenſible to the Checks of powerful Nature. They ordered the Criminal to be ſowed up alive in a Sack, and to be thrown into the River.

WHAT matchleſs Wiſdom! Does it not ſeem, my Lords, that they conveyed, they ſnatched that Man out of the Syſtem of Nature, whom they thus ſuddenly deprived of Air, Light, Water and Earth? Thereby intimating, that the Man who murdered Him, to whom he ow'd his Exiſtence, ought to be deprived of thoſe Elements from which all other Things have theirs. They would not ſuffer his Body to be thrown to Beaſts, leſt their Ferocity ſhould be increas'd by the Contact of ſo much Guilt; they would not ſuffer them to be thrown naked into the River, leſt they ſhould carry Pollution into the very Sea, which they thought could waſh away Pollution * from every Thing beſides. In ſhort, the meaneſt, the moſt deſpicable Thing in the World, was thought too good for

* *Waſh away Pollution.*] This was the Opinion of the Antients. We have the following Verſe of *Euripides* from *Cælius Rhodoginus.*

Θαλασσα κλυζει παντα των ανθρωπων κακα.

The Sea purges away all the Defilements (Evils) of Mankind.

them to ſhare in. For what can be ſo common * as Air to the Living; Earth to the Dead; the Sea to the Floating; or the Shore to the Out-caſt? While they live, they breathe not the Air of Heaven; when they die, Earth cannot receive their Bones; when they float, they never can be purified; at laſt, they are caſt out; but they find no Reſt, even on the Rocks. Do you, *Erutius*, imagine, that you ſhall be able to prove, before ſuch a Bench as this; the Commiſſion of ſo black a Crime; a Crime, for which ſo ſignal a Puniſhment is provided; and that too, without producing one Motive for committing it? Were this a Trial, even before Brokers of Eſtates,† and *Chryſogonus* himſelf Preſident of the Court, yet you ſhould have appeared at the Bar better inſtructed and better furniſhed.

To

* *For what can be ſo common.*] This charming Rhapſody, which enchanted the *Romans* ſo much, was condemned by *Cicero* himſelf, when he came to judge more cooly; I will take the Liberty to put down his own Words, *Quid enim tam commune*, &c. *Et quæ ſequuntur. Sunt enim omnia ſicut adoleſcentis, non tam re & maturitate, quam ſpe & expectatione laudati.*

However, notwithſtanding the Severity, and perhaps, the Juſtice of this Cenſure, I dare ſay, my ingenious Reader will wiſh, that he had been guilty of more Offences of this Kind. One can judge of the Greatneſs of a Genius by its *Faults*, as well as by its *Beauties*; and ſometimes *both give us equal Pleaſure.*

† *Brokers of Eſtates.*] Theſe Fellows appeared to have infeſted the Common-wealth of *Rome*, in thoſe Times of Diſtraction, as much as Stock-jobbers, *&c.* did the *Change-Alley* in our unhappy *South-Sea* Year.

To what can we attribute your Negligence? To your Ignorance of the Cauſe, or your Diſregard of the Court? The Cauſe is a Charge of Parricide; a Crime, that cannot be attempted without many ſtrong Motives. The Judges are Men of the moſt conſummate Wiſdom; Men, who are ſenſible that no one commits the ſmalleſt Crime without ſome Motive.

SUPPOSING then, that you can produce no Motive; it is true, that this gives up the Matter quite in my Favour; but for once I will forego my Right; and ſo thoroughly ſatisfied am I of the Innocence of *Roſcius*, that I will make Conceſſions in this Cauſe, which I would make in no other. I will not aſk you, what Motive induced *Sextus Roſcius* to murder his Father? I will only aſk *how* he did it? I will, *Erutius*, urge this Queſtion, and deal with you in ſuch a Manner, that you ſhall be left at Liberty either to anſwer or to interrupt; or, if you pleaſe, to queſtion me. How did he kill him? With his own Hand? Or did he leave it to others? If you ſay, he did it himſelf; he was not at *Rome*. If by others; let me aſk you, whether they were Slaves, or free? What Kind of Men were they? Were they Cut-throats of *Ameria*, or of *Rome*? If of *Ameria*, who are they? Why are they not named? If of *Rome*, by what Means came *Roſcius* to know them? He, who had not been at

Rome for many Years, and never was above three Days in it at one Time. Where did he meet them? Whom did he treat with? In what Manner did he bring them over to his Purpoſe? Did he hire them? To whom did he pay that Hire? Thro' whoſe Hands did it paſs? Whence came it, and how much was it? Theſe are the Circumſtances that direct the Purſuit of Juſtice upon the Head of the Offender. Give me Leave, at the ſame Time, to put you in Mind, in what Colours you have drawn this Man's Life. You have painted him a Clown, and a Savage; as having no Converſation or Intercourſe with the human Species; and as one, who had never ſettled in any Town.

I SHALL not here inſiſt upon a Circumſtance, I could urge as a ſtrong Proof of his Innocence; which is, that Offences of this black Dye are ſeldom hatch'd under this clowniſh Habit, theſe ſparing Meals, and this plain, uncouth Manner of living. Every Life is not productive of every Vice, no more than every Soil is of every Grain and every Tree. The City creates Luxury; Rapaciouſneſs * is the neceſſary Conſequence of Luxury; Audaciouſneſs breaks out from Rapaciouſneſs; and thence ſprings all Manner of Guilt and Miſ-

* *Rapaciouſneſs.*] Tho' our Author here uſes the Word *Avaritia*, which ſignifies to be *tenacious*, as well as *rapacious*, yet it is plain from his Reaſoning, that he meant it here in the reſtricted Senſe, as I have tranſlated it.

Miſdeeds; but this Country Life, which you call ſavage, is the Directreſs of Frugality, Induſtry, and Juſtice.

I SHALL, however, paſs over all theſe Conſiderations; give me Leave only to aſk you, how, and by what Inſtruments, a Man, who, as you yourſelf ſay, never lived amongſt Men, could perpetrate a Crime of ſo deep a Dye, and ſo dark a Nature, eſpecially in his Abſence? There are many Allegations, my Lords, which are falſe, yet are attended with ſome Appearances of Truth; but if, in *this* Caſe, there ſhould be found ſo much as an Appearance, I will admit the Charge. *Sextus Roſcius* is killed at *Rome*, while his Son is living upon his Eſtate at *Ameria*. I ſuppoſe, he, who was not acquainted with a Soul at *Rome*, wrote to ſome Aſſaſſin there. He ſent for one: But *when?* He diſpatched a Meſſenger: But *whom?* Or *to whom?* He prevailed upon ſome one or other by Hire, Favour, Hopes, or Promiſes; but not one of theſe Circumſtances is even pretended; and yet, this is an Impeachment of Parricide. But they are now driven to ſuppoſe that he might do it by his Slaves.

IMMORTAL Gods! how hard, how deplorable a Caſe is ours! *Sextus Roſcius* is deprived of that Defence, which generally clears the Innocent upon a Trial like this; for he is not admitted

mitted to offer his Slaves to the Queſtion. Ye, who are his Impeachers, have all his Slaves in your Power: Nor is the unhappy *Roſcius* ſuffered to have, out of all his numerous Train, one Boy to ſerve him at his Meals. I appeal, *Pub. Scipio*, to you, and to you, *Metellus*, whether while ye acted as Advocates and Agents in this Affair, *Sextus Roſcius* did not often demand of his Proſecutors, that two of his Father's Slaves* might be put to the Queſtion. Don't you remember, *T. Roſcius*, that you denied him? How? Where are thoſe Slaves? Why, my Lords, they are in the Retinue of *Chryſogonus*; they are careſſed and rewarded by *him*. I ſtill demand, and my Client moſt earneſtly intreats, that they may be examined. What are you doing? Why do you refuſe it?

ENTERTAIN a Doubt now, my Lords, if you can, about the Perſon who murdered old *Sextus*

* *His Father's Slaves.*] I will only throw out a Hint here by Way of Illuſtration. The *Roman* Law, as *Cicero* has laid down in many of his ORATIONS very ſtrongly, did not allow of any Slave being put to the Queſtion againſt his Maſter, without the Maſter's Conſent. Therefore, it is very probable, that *Erutius* objected to this Examination of the Slaves; "Becauſe that he, the Priſoner, was not their "Maſter, nor indeed, was his Father, at the Time of his "Death: For a Man who is proſcribed has no Property, and "old *Roſcius* was proſcribed. *Chryſogonus*, having got a "Gift of his Eſtate, therefore, became Maſter of his Slaves, "and the Priſoner had nothing to do with them; therefore, "they could not be examined at his Inſtance." However, this Argument, as managed by our Author, could not fail of having its intended Effect upon the Judges.

Sextus Roſcius. Can you ſuſpect the Man, who by that Murder was driven into Poverty and Trouble, and who is denied the Privilege even of enquiring into his Father's Death? Or will you ſuſpect thoſe, who decline the Queſtion, who poſſeſs the Spoil, and who live *in* Blood, and *by* Blood? Every Circumſtance, my Lords, of this Caſe is wretched and ſhameful; but it is impoſſible to expreſs any that is more iniquitous, and more unjuſt than this: The Son is not admitted to examine his Father's Slaves about his Father's Death; nor ſuffered to be Maſter of his own Slaves, ſo long as to put a Queſtion to them upon this intereſting Subject. But I ſhall ſpeak to this Point by and by; for it entirely relates to the *Roſcii*, whoſe Audaciouſneſs I promiſed to ſpeak to, after I had diſcharged away * the Allegations brought by *Erutius*.

But now, *Erutius*, I come to your Part. You muſt of Neceſſity agree with me, if he be guilty of this Crime, that he either did it with his own Hands, which you deny; or by Means of ſome Freed-men or Slaves. Do you admit them to have been Freed-men? But you can neither ſhew how he could aſſemble them, nor where they met; by what Motives, by what Agents,

* *Diſcharged away.*] The Original is *Diluiſſem*, a Metaphor, which ſeems to have been taken from the Art of *Dying*, and is very common with our Author. When *Dyers* alter the Colour of any Piece of Cloth or Silk, they call it *diſcharging that Colour*.

Agents, by what Inducements, by what Hopes, nor for what Hire. On the other Hand, I take upon me to prove, that *Sextus Roſcius* was not only innocent of all this, but that it was abſolutely impoſſible for him to be guilty; as he had not for many Years been at *Rome*, and as he never left his Farming-Buſineſs, but upon ſome very preſſing Occaſion. The Mention of the Slaves you ſeem to have reſerved as a Plank to carry you into Harbour after the Shipwreck of all your other Allegations; without minding, that you ſtrike upon ſuch a Rock, as that you ſhall ſee this Charge not only recoil from *Roſcius*, but you ſhall perceive all the Preſumptions of it rebound upon yourſelves.

WHAT then is left, or whether can the Proſecutor, in ſuch a Diſtreſs of Proofs, fly for Shelter? The Licentiouſneſs, ſays he, of the Times was ſuch, that Murder was frequent, and commonly attended with Impunity. This is a very good Reaſon why you was able to perpetrate this Crime with very little Trouble, becauſe there was ſuch Plenty of Murderers. Indeed, *Erutius*, I can't help thinking, that you now want to compaſs two Ends for one Reward. *Firſt*, To blacken us in this Court; and *Secondly*, To impeach your Pay-maſters. How did you ſay? *Murders were frequent*. Frequent! Who were the Ruffians? And who employ'd them? Don't you conſider, that you are brought hither by

by *Brokers?* And what then? Why, don't we all know, that in thoſe Days, the ſame Gentlemen who knocked down Eſtates,* generally knock'd down Men?

In ſhort, the very Perſons who patrol'd Night and Day in Arms thro' the Streets; who were perpetually in *Rome*; whoſe Lives were a continued Scene of Rapine and Blood; theſe very Men object to *Sextus Roſcius* the Cruelties and Injuſtice of thoſe Times, and think to Charge, as Crimes upon him, that very Frequency of Murders of which they themſelves were the Abettors and the Principals: Upon a Man, who was not only abſent from Rome, but entirely ignorant what was doing there; becauſe, as you yourſelf confeſs, he was always in the Country.

I am afraid, my Lords, that I ſhall appear to be either troubleſome, or to diſtruſt your Underſtandings, ſhould I inſiſt any longer upon Matters that are ſo very ſelf-evident. I humbly conceive, that the whole Charge of *Erutius* is refuted: Unleſs the Court ſhould be of Opinion, that I ſhould Purge my Client from the Charge of purloining the public Money,

* *Knock down Eſtates.*] There is an humorous Pun in the Original, which I have preſerved as well as I could in our own Language. *Neſcimus, per iſta tempora, eoſdem fere ſectores fuiſſe collorum & bonorum.* I believe the Reader will pardon this Liberty, when he reflects, that our ſelling Goods by Auction is by the Auctioneers *knocking them down, when nobody will bid more,* which anſwers exactly to the Pun that *Cicero* introduces here.

ney, and ſome other trumpt-up Stories, which before this Time I never heard of; and appeared to me to be taken from ſome other Speech, and deſigned againſt ſome other accuſed Perſon. As to theſe, as you have nothing but bare Aſſertions to eſtabliſh them, ſo bare Aſſertions are ſufficient for deſtroying them. If he has a Mind to reſt any Thing upon Witneſſes, he will find me more ready there, as well as upon the Merits of the Queſtion itſelf, than he did imagine.

THE Part I now enter upon, proceeds not from any Inclinations I feel within myſelf, but from the Duty I owe to my Client; becauſe did I chuſe to impeach, I would impeach thoſe whoſe Impeachments could advance me; which I am reſolved not to do, as long as I have Liberty either to proſecute or to defend. For to me that Man appears the moſt amiable, who riſes by his own Virtue, and not he, who climbs to Pre-eminence by help of the Misfortunes and Miſeries of another. Let us, therefore, give over our Enquiries into Matters of no Moment. Let us enquire where the Guilt lies, and where it can be fix'd. You may by this Time underſtand, *Erutius*, how many Preſumptions muſt concur to eſtabliſh one Fact. I ſhall not ſpeak fully to them all, but touch upon each. Nor would I do even that, were it not indiſpenſable.

As

As a Proof of that, I will not puſh my Charge farther than my Client's Intereſt and my own Duty requires.

You could find no Motive in *Sextus Roſcius*, but I can in *Titus Roſcius*: It is with you, *Titus Roſcius*, that I have now to do, as you ſit upon that Bench, and openly profeſs yourſelf an Adverſary. I ſhall take Care of *Capito* afterwards, in Caſe, as I hear he is ready to do, he ſhall appear as an Evidence. He ſhall then perceive more Trophies of his own Feats, ſuch as he is not aware that I have ſo much as heard of. The great *Lucius Caſſius*,* whom the People of *Rome* looked upon as a moſt equitable and a moſt diſcerning Judge, uſed in all Trials to enquire, *To whoſe Advantage was it done*. For ſuch is the Conſtitution of human Nature, that no Man aſpires to commit a wicked Action, but from ſome Hope, or to gain ſome Profit.

THEY who were to take their Trials were afraid of, they trembled at the Thoughts of having him for their Judge; becauſe, tho' he was the Friend of Truth, yet he did not ſeem ſo much to incline to Mercy, as to be biaſs'd towards Severity. For my own Part, tho'

* *Lucius Caſſius.*] This Gentleman ſeems to have been the Author of the celebrated Queſtions of the Civil Law. *Cui bono?* That is, *To whoſe Advantage could ſuch and ſuch a Thing ſerve?* See the Oration for *Milo*.

tho' a brave Man, who knows how to check the Guilty, and to compaſſionate the Innocent, ſits as the Preſident of this Court, yet I would chearfully venture, even before *Caſſius*, or before Judges like him, who are the Terrors of the Accuſed, to plead the Cauſe of *Sextus Roſcius*.

FOR when they ſhould perceive upon this Trial, that the Proſecutors fell into the Poſſeſſion of a vaſt Sum; while the Accuſed was left a very Beggar; they would not enquire, *Who was to be a Gainer by the Murder?* but they would fix the Crime and its Preſumptions rather upon the Plunderers than upon the Needy.

BUT ſhould they add another Conſideration, that before this you yourſelf was indigent; perhaps that you was rapacious; perhaps, that you was audacious; perhaps, that you bore the moſt inveterate Hatred againſt the Deceaſed; could they be at a Loſs to account for the Motive that induced you to commit this black Action? Is there a Circumſtance in all this that can be denied?

HIS Indigence was ſuch, that it cannot be conceal'd; and the more he would attempt to diſguiſe it, the plainer it will appear. Your Rapaciouſneſs is written in your Forehead; ſince you could enter into Partnerſhip with a mere

Stranger

Stranger upon the Fortune of your Relation and Fellow-Citizen. Your Audaciouſneſs, not to mention other Proofs, is plain to all Mankind, by your being the only one of all the Conſpiracy, among all the numerous Gang of Aſſaſſins who ſit along with the Impeachers, and not only ſhew, but thruſt that Face of yours into the View of this Court. You will be obliged to own, that you entertained an Enmity, and had great Family-Quarrels, with *Sextus Roſcius*. Therefore, my Lords, you are now to conſider, whether it is more probable, that the Deceas'd was murdered by the Man who inherits his Eſtate, or by him who inherits nothing but Beggary by the ſame Death. By the Man who was raiſed from Penury to Plenty, or by him, who was brought from Happineſs to Miſery. By him, whom the Luſt of Lucre has inflamed with the moſt inveterate Hatred againſt his own Relations; or by him, whoſe Life was ſuch, that he never knew what Gain was, but from the Product of his own Labours.* By him, who of all Dealers in the Trade of Blood,† was the moſt audacious, or by him, who was ſo

* *What Gain was, but from the Product of his own Labours.*] *Orig Quæſtus.—Fructus.—Quæſtus* is applied to *Merchandize or Traffic* of any Kind. *Fructus* to *Agriculture.*

† *Dealers in the Trade of Blood.*] *Orig Omnium ſectorum.* The ſame Pun upon the Word *Sector*, which is either derived from *ſeco*, or was the old Way of writing *ſequor*, is ſtill continued. I have tranſlated it accordingly.

ſo little accuſtomed to the Forum, and Trials, that he dreads not only the Benches of a Court, but the very Town. In ſhort, my Lords, what I think moſt to this Point is, you are to conſider whether it is moſt likely, that an Enemy, or a Son would be guilty of this Murder.

HAD you, *Erutius*, got ſo many, and ſuch important Circumſtances to urge againſt my Client; how long would you plead! How would you vapour! The *Light*, by Heavens! would fail you ſooner than your *Lungs*. For upon each of theſe Subjects, the Matter is of ſuch a Nature, that you can conſume whole Days in ſetting it forth; and I could do the ſame. For tho' I aſſume nothing to myſelf, yet I will not derogate ſo much from my own Qualifications, as to own, that you can ſpeak more copiouſly than I can. But the Number of Council is ſuch, that I perhaps may be loſt in the Crowd; a Battle of *Cannæ* * has qualified

* *A Battle of* Cannæ.] This Paſſage requires Explanation.

Cicero, it muſt be acknowledged, indulged a youthful Fancy too much in this Oration. *Prælium Cinnanenſe*, the Battle which was deciſive in Favour of *Sylla*, and wherein a vaſt Number of *Roman* Knights were ſlain, happening to have ſomewhat in it that ſounded pretty much like *Prælium Cannenſe*, makes our Author uſe the latter Word inſtead of the firſt, which might have been dangerous to have done at that Juncture. The true Reaſon why he introduces the Mention of it here is this.

The Battle againſt *Cinna*, or the *Prælium Cinnanenſe* was fatal

qualified you ſufficiently for an Accuſer. We have ſeen the *Servilian*,* not the *Thraſimenian* Lake, a Scene of Slaughter.

Who did not ſuffer there from Phrygian *Steel.*†

There is no Occaſion for me to enumerate all Particulars, the *Curtii*, the *Marii*, in ſhort, the *Memmii*,‡ whom Age itſelf excuſed from

fatal to ſo many *Roman* Citizens, that there did not remain Men of Credit ſufficient for carrying on Impeachments. (*See the Oration againſt* Cæcilius, *Vol.* I.) Therefore every Scoundrel had a Chance of being admitted as an Impeacher.

The Battle of *Cannæ* was ſo fatal to the *Romans* in like Manner, that they had not Citizens ſufficient for defending their Country. Therefore Slaves were enliſted as *Roman* Citizens, as we ſee in *Livy*, l. 1. c. 57. Therefore ſays our Author, you are indeed a proper Accuſer now, but that happened only by the *Pugna Cinnanenſis*: In the ſame Manner as the *Roman* Slaves were admitted to be Citizens after the Battle of *Cannæ*.

* *Servilian.*] The Battle of *Cannæ* was fought near the Lake of *Thraſimen*, which our Author here mentions, becauſe it ſeems to agree to the *Servilian* Lake, where *Sylla* murdered a vaſt Number of *Romans*, and ſet their Heads up to public View. This Lake is called by *Seneca*, *Lacus proſcriptionis Syllanæ ſpoliarium.*

† *Who did not ſuffer there from* Phrygian *Steel.*] This ſeems to be a Verſe taken from an old Tragic Poet, to ſhew that the *Phrygians* were acounted a mean, baſe Kind of People, and had killed a great many *Roman* Senators.

‡ *Memmii.*] The common Reading is *Mamerci*, but I have ventured a ſmall Alteration here of this Word upon the Authority of *Fulvius Urſinus*, and that of our Author in his *Brutus*, c. 36. where he mentions the Family of the *Memmii* as very eminent Accuſers: His Words are, *Jam etiam C. & L. Memmii fuerunt Oratores mediocres, accuſatores acres atque acerbi. Itaque in judicium Capitis multos vocaverunt: pro reis non ſæpe dixerunt.*

Battle :* At laſt the aged *Priam*,† the venerable *Antiſtius*, who was excuſed from fighting, not by his Years only, but by the Laws. At the ſame Time, there are ſix hundred ſo mean that nobody names them, who ſerve as Accuſers upon the *Statutes of Stabbing and Poiſoning*. For my Part, I wiſh they may all of them have Bread; for it can do no Harm to have a great Number of Dogs, where a great many People are to be watch'd, and a great deal is to be guarded.

BUT, as it generally happens in the Heat and Hurry of War, a great deal is done without the Know-

* *Whom Age itſelf excuſed from Battle.*] The Time when a *Roman* was no longer obliged to ſerve in War, was the forty-ſixth Year of his Age. *Hottoman* is of Opinion, that this is ſpoken of *Forenſian* Battles, as if theſe People had been too old to battle it at the *Forum*.

† *At laſt the aged* Priam.] I am not at all aſhamed to own, that for ſome Lines before this, where our Author begins his Reflections upon Accuſers, I am a good deal at a Loſs, not only to find out his *Wit*, but his *Meaning*; and I dare ſay, that if the letter'd Pride of thoſe old Gentlemen, the Commentators, would have ſuffered them, they would have made the ſame Acknowledgment. However, it may be proper to inform the Reader, to aſſiſt him in groping out the Senſe of this Paſſage, that what is ſaid here about *Antiſtius*, is ſpoken of *Forenſian* Battles. Probably this *Antiſtius* had been branded, as we have mentioned above, or was under ſome other legal Diſqualification, that diſabled him from acting as an Accuſer. But if it is ſpoken of *Military* Battles, we are to ſuppoſe, that he had ſome bodily Diſeaſe or Defect, becauſe the Laws of *Rome* excuſed ſuch from ſerving as Soldiers. *Vid. Lipſ. de Mil. Rom. L. Dial.* 4.

Knowledge of the Generals. While the Perſon in whom the Government was lodged, was intent upon other Matters; ſome People took that Opportunity of curing their own Wounds; and, as if the State had been wrapt in eternal Night, they joſtled about in the Dark, and put every Thing into Confuſion. So that I am ſurprized they did not even burn the very Benches, that there might not be left ſo much as a Mark of a Court of Juſtice; for they deſtroyed both Judges and Proſecutors. This Satisfaction however remains; that they behaved in ſuch a Manner, that it was impoſſible, had they endeavoured it, to have deſtroyed all the Evidences of their Guilt: For while the human Species ſubſiſts, never can they be without Accuſers; and while this State remains, never can it be without a Judicature. But as I was ſaying,* had *Eru-*

* *But as I was ſaying.*] As we have paſt the Paſſage I was complaining of, it may not be at all improper to give the Reader a farther ſhort Hint or two upon that Subject.

The Slaughter of the *Romans* by *Sylla* was very terrible, and as they who fell by a Proſcription could leave no Inheritance to their Children, their Eſtates were generally begged off, as in the preſent Caſe, by ſome one or other who was in Favour with the Victor. But in order to obtain a Proſcription, it was neceſſary, that the Parties ſhould be impeached upon ſome *Overt-Act*, againſt the Government; and *Sylla*'s Law *inter ſicarios & veneficos* was very expreſs upon this Head. But at that ſame Time there was a Clauſe in that Law, which rendered it very ineffectual; ſince it made it optional to the Accuſed, whether the Judges ſhould give their Sentence *clam* or *palam*,

i. e.

tius, in his Favour, the Arguments I have mentioned in mine, he would enlarge upon them a long Time; and, my Lords, ſo could I. But I deſign, as I have already told the Court, to touch upon every Circumſtance but ſlightly, and with a gentle Hand; that the World may ſee, that it is not my Choice to *impeach*, but my Duty to *defend*.

WE have ſeen therefore a great Number of Motives that might prevail with this Man: Let us now examine whether he had any Opportunity

i. e. *by Voices*, or *by Tablets*, the latter Method being liable to the greateſt Abuſes and Perverſions. As the *Romans* at that Time began to be exceſſively debauched, Bankruptcies were very frequent, and the Deſperate of all Denominations were ready to join the Victor in order to repair the Ruins of their own Fortunes: For this Purpoſe they were always ready to ſuggeſt, that ſuch or ſuch a Perſon was diſaffected to his Party, and therefore ought to loſe his Life and Fortune; this they called *being proſcribed*. Many horrible Examples of this Kind happened; but tho' *Sylla* was always very forward to encourage Proſcriptions, yet ſtill there lay an Action upon his own Law againſt thoſe who deſtroyed any *Roman* by a falſe Accuſation. They who got into Poſſeſſion of Eſtates therefore by Proſcription, had no other Safety than by uſing all Methods of ſtifling Impeachments of all kinds. It was owing to this, that the principal Slaughter of the proſcribed *Romans* in thoſe Days, fell upon thoſe who had moſt diſtinguiſhed themſelves in quality of Accuſers: This gives Riſe to all the dark Satire of our Author in this Place. But there is a Paſſage in his Oration againſt *Cæcilius*, which was pronounced ten Years after this, that plainly points out the State of Impeachments at this Time, and throws great Light upon all this Paſſage, though I own not ſufficient to clear it quite up.

Qui

nity for committing this Villany. Where was *Sextus Roſcius* murdered? *At* ROME. How! *Titus Roſcius* where was you then? At ROME. *But what is that to the Purpoſe? ſo were a great many more.* But give me Leave to obſerve, my Lords, that the Queſtion now, is not, *who of all*

Qui judicia manere apud ordinem ſenatorium volunt, querantur accuſatores ſe idoneos nos non habere. Qui accuſare poſſunt, judiciorum ſeveritatem deſiderant. Populus Rom. interea tametſi multis incommodis, difficultatibuſque affectus eſt, tamen nihil æque in Repub. atque illam veterem judiciorum vim gravitatamque requirit. Judiciorum deſiderio, Tribunitia poteſtas efflagitata eſt: judiciorum levitate ordo quoque alius ad res judicandas poſtulatur. Judicum culpa atque dedecore etiam cenſorium nomen, quod aſperius antea populo videri ſolebat, id nunc poſcitur. Id jam populare atque plauſibile factum eſt. In hac libidine hominum nocentiſſimorum, in populi Rom. quotidiana querimonia, judiciorum infamia, totius ordinis offenſione, cum hoc unum his tot incommodis remedium eſſe arbitrarer, ut homines ideoni atque integri cauſam Reipub. Legumque ſuſciperent: Fateor me ſalutis omnium cauſa ad eam partem acceſſiſſe Repub. ſublevandæ, quæ maxime laboraret. See Vol. I. p. 89.

From this Paſſage we may perceive, that all Impeachments at that Time were no better than colluſive ones, by the Prevarication of the Proſecutors: And no Doubt, a great Number of them were intended as a Security for thoſe who were in Poſſeſſion of the *Eſtates of the Proſcribed*; which they thought themſelves no other Way ſure of, but by a formal Deciſion of Juſtice. It was owing to this Practice of Colluſion, that the *Prævaricatores*, about this Time probably, began to be diſtinguiſhed by that Name: In ſhort, the Abuſe became ſo flagrant, that *Aurelius Cotta*, in the Year in which *Cicero* pronounced the laſt mentioned Oration, preferred the Law reſtoring the Equeſtrian Order to the Right of judging in Conjunction with the Senatorian. This happened about the Year of *Rome* 685, but according to our Scholiaſt, in the Year 683, though Dr. *Kennet*, with unpardonable Inaccuracy, places it in the Year 653.

that Number murdered him? But whether it is moſt rational to conclude, that a Man who was murdered at *Rome*, was murdered by one who, about that Time, was there every Day, or by one who had not been ſo much as near *Rome* for many Years.

I SHALL now proceed to the other Opportunities. Said *Erutius*, Rome *at that Time ſwarm'd with Aſſaſſins, and Murder paſt unpuniſhed.* How! then who compoſed thoſe Swarms of Aſſaſſins? To be ſure either they who ſought to get Eſtates by Murder; or they who were hired by them for thoſe Purpoſes. If the firſt, then you yourſelf come into that Number, ſince you are now enrich'd by our Eſtate. If the latter, whom ſome People call by the ſofter Name of *Executioners*; let me aſk you, by whom they are hir'd, and on whom do they depend? Believe me, you will find, upon Enquiry, a certain Accomplice of yours in that Number: And by weighing all your Objections with our Defence, the Queſtion betwixt *Sextus Roſcius* and you, may be eaſily ſtated.

BUT *what then*, ſay you, *ſuppoſing I was every Day at* Rome? All my Anſwer to that is; I was not. *I own that I am a Broker, and ſo were a great many more.* But you yourſelf admit that I was a Farmer and a Clown. *Does it follow, that becauſe, perhaps, I ſometimes kept*

Com-

Company with Murderers, that I am a Murderer myſelf? But then, Sir, I, who never was ſo much as acquainted with any of that Gang, can never be guilty of ſuch a Crime. A great Number of other Circumſtances might be brought to prove, that you had the moſt inviting Opportunities for undertaking this Murder; but I will overlook them, not only becauſe I am unwilling to accuſe you; but becauſe if I were to enter into a Detail of thoſe Murders which were committed at the ſame Time, and with the ſame Views as that of *Sextus Roſcius*, it might affect others beſides you.

LET us now, *Titus Roſcius*, enquire, with the ſame gentle Hand, into what you did *after* the Death of *Sextus Roſcius*. Theſe, my Lords, are Actions ſo glaring and ſo flagrant, that, by Heavens, I touch upon them with Unwillingneſs. For, *Roſcius*, whatever your Merits or Demerits may be, I am afraid leaſt I ſhould ſeem to ſave my Client at your Expence. While I am under this Aprehenſion, and am inclined ſo far as is conſiſtent with the Duties of my Profeſſion, to ſpare you, I change my Mind. Your Impudence thruſts itſelf full upon me. Have not you, while your other Accomplices have deſerted you and abſconded, that it might appear as if this Proſecution had been ſet on

foot, not with a View to ſecure *their* Plunder, but to puniſh *his* Guilt, ſolicited and ſtruggled for the Character in which you now appear, that you might have a Hand in the Trial, and ſit among the Proſecutors? An Ambition in you which can ſerve no other End, but to expoſe your Preſumption and Impudence to the View of all Mankind.

WHO brought the firſt Accounts of the Death of *Sextus Roſcius* to *Ameria*? Your Dependent and Friend, *Mallius Glaucia*, whom I have already mentioned. What was the Meaning of this, that he, of all Mankind, was the Meſſenger of this News; for you, of all others, had the leaſt Right to take any Concern in ſuch an Event, if you had entered into no Deſign againſt the Life and Fortune of the Deceaſed, and form'd no Agreement, either as to perpetrating or rewarding the Murder. Did *Mallius* do it of his own Accord? Pray what Concern had he in it? Was it by Accident, when he came to *Ameria*, not on this Account, that he was the firſt who told there what he had heard at *Rome*? What brought him to *Ameria*? *I can't tell*, ſay you, *I am no Conjurer*. Then, without being a Conjurer, I will bring the Matter to a ſhort Iſſue. What was the Meaning of his carrying the firſt Accounts to *Titus Roſcius Capitò*, while the Deceaſed had a Family, a Wife, and Children at *Ameria*, while

while ſo many of his Relations liv'd there in the moſt endearing Familiarity? What, I ſay, was the Meaning that this Creature of yours, this Meſſenger of your Wickedneſs, ſhould carry this News to *T. Roſcius Capito*, rather than to any Body elſe?

THE Deceaſed was killed as he was returning from Supper, and the News was at *Ameria* before Day. What does this incredible Diſpatch, this Haſte, this Hurry intimate? I don't aſk you who murdered him. You have nothing to fear *Glaucia*; I am not examining; I am not ſearching you for the concealed Poniard. That is nothing to me at preſent; becauſe, as I have already diſcovered by whoſe Contrivance the Murder was committed, it matters not who gave the Blow. One Fact I have eſtabliſhed, and that throws a Light upon all your Wickedneſs. Where or from whom did *Glaucia* hear this? How came he to know it ſo ſoon? Suppoſing he had heard of it the Moment it was committed, what obliged him to perform ſo great a Journey in one Night? What Neceſſity was ſo preſſing as to force him, if his coming to *Ameria* was mere Matter of Choice, to leave *Rome* at ſo late an Hour, and to travel all Night? In a Matter ſo very clear as this, are we to hunt for Arguments, are we to be puzzled how to form Conjectures?

Is

Is not all you have heard, my Lords, painted before your Eyes? Don't you ſee the unhappy *Roſcius*, ignorant of his Fate, returning from Supper? The Aſſaſſins planted? The ſudden Onſet? And *Glaucia*, a principal Actor in the Murder? Is not *Titus Roſcius* preſent to your Eyes? Does he not with his own Hands help his *Automedon* * into his Chariot, that he may be the firſt to carry the News of his cruel Guilt, and his unnatural Conqueſt? Does he not beg him to take no Reſt that Night? To take a little Pains for his Honour, and to carry the News as early as poſſible to *Capito*?

WHY did he want that *Capito* ſhould be the firſt to know it? I don't know; but I know that *Capito* ſhar'd in this Eſtate. I ſee that out of thirteen Farms, he poſſeſſes three of the beſt. I underſtand likewiſe, that this is not the firſt Time *Capito* has been ſuſpected on this Account: That he has won many infamous Wreaths, but that this is the firſt Garland he ever carried into *Rome*: † That there is no Method of Murder which he has not practiſed: Many has he diſpatch'd

* *Automedon.*] He was the celebrated Charioteer of *Achilles*, mentioned by *Homer*.

† *That he has won many infamous Wreaths, but that is the firſt Garland he ever carried into* Rome.] In the Original it is, *Multas eſſe infames palmas, hanc primam eſſe tamen lemniſcatam, quæ Romæ deferatur*:

The Difference betwixt *Palma*, and a *Palma lemniſcata*

patch'd by the Sword, and many by Poiſon. I can likewiſe produce you an Inſtance, where, contrary to a good old Cuſtom, he threw a Man over the Bridge into the *Tiber*, who was not ſixty Years of Age.* If he appears, or rather when he appears, for I underſtand he is to do it, he ſhall hear all this himſelf.

LET

cata is this; The firſt was a plain Wreath, and beſtowed upon ſecond-rate Gladiators; But when the *Palma* was *lemniſcata* it was curiouſly done up with Ribbands and Taſſels, in the ſame Manner we ſee it upon the Coins of Emperors, Kings, &c. We have a delicate Compliment made by *Auſonius* to *Paulinus* to this Purpoſe,

Et quæ jamdudum tibi palma poetica pollet,
Lemniſco ornata eſt, quo mea palma caret

" The Muſe thy Garland has adorn'd with Coſt,
" A ſimple Wreath is all that I can boaſt.

So that *Cicero* in other Words ſays, that this was his greateſt Exploit in Murder.

* *He threw a Man over the Bridge into the* Tiber, *who was not ſixty Years of Age.*] This Paſſage would be unintelligible to a Reader who did not know, that at *Rome* the uſual Method of giving Votes was by each Tribe paſſing over a narrow Bridge, perhaps made of Boards, into the *Ovilia* or the *Septa*, which were railed round, to diſtinguiſh the Voters from the Multitude. When a Man was denied the Privilege of voting, he was ſaid to be *Dijectus de ponte, & depontatus*. Now, there was this peculiar Circumſtance in the *Roman* Policy, that no Man above ſixty Years of Age, as we are told by *Varro*, could vote in an Election. *Ovid* accounts for the Original of this Inſtitution very early.

Pars putat ut ferrent juvenes ſuffragia ſoli,
" *Pontibus infirmos præcipitaſſe ſenes.*

The Reader will eaſily pick out a Key, from what I have ſaid, to *Cicero*'s Meaning.

LET him advance; let him then produce that Roll which I can prove *Erutius* wrote for him; with which, they ſay, he threatened *Sextus Roſcius*, by telling him that he would bring it all in Evidence. What a notable Witneſs, my Lords, is this! What ſolemn Dignity have we here! How blameleſs in his Life! Can you refuſe implicitly to make it the Rule by which you are to judge upon Oath? Give me leave to ſay, that we could not ſo plainly diſcern their Guilt, were they themſelves not blinded by Paſſion, Avarice, and Preſumption.

ONE diſpatch'd a nimble Meſſenger hot from the Murder, to his Companion and Director at *Ameria*: So reſolved was he, if all Mankind ſhould deſire to ſeem ignorant who committed the Fact, to come and expoſe his own Guilt, naked to their Eyes. The other, in the Name of Heaven, is to be an Evidence againſt *Sextus Roſcius*; as if you were now to conſider whether he ought to be believed in what he has to ſay, or puniſhed for what he has done. But our Conſtitution has provided, that the greateſt Men can never be an Evidence in the ſmalleſt Matter that concerns themſelves.

AFRICANUS, tho' his very Name is a Declaration that he conquer'd a third Part of

the

the World, could not be admitted as an Evidence * in his own Cauſe. I dare not make ſo free with ſo great a Man, as to ſay, that if he had been a Witneſs, he would not have been believed. Obſerve how every Thing is altered and degenerated. Now in a Trial concerning an Eſtate, and a Murder, a Broker and an Aſſaſſin is to be admitted as an Evidence; I mean, the Buyer and Poſſeſſor of the Eſtate now in Diſpute; and the Procurer of the Murder now in Queſtion.

WELL, moſt excellent Sir,† have you any Thing to offer? Mind me, take care, that you do your beſt; you too have a great deal at Stake. You have done many *wicked*, many *bold*, many *criminal* Actions: And, believe me, you have now done a *very fooliſh* Thing, of your own Accord, no Doubt, and not by the Advice of *Erutius*. You had no Buſineſs to ſit on that Bench: For no Man produces a dumb Proſecutor, nor an Evidence who riſes from the Bench of Accuſers. Beſides, your Malice ſhould have been a little more conceal'd, a little more guarded. Does any one now deſire to hear any Thing from you? now that you have acted in

An Evidence in his own Cauſe.] Nullus idoneus teſtis in ſua re intelligitur. *Pompon. l.* 10. *de teſtibus.*

† *Moſt excellent Sir.*] He applies here to *T. Magnus*, who was among the Proſecutors.

in ſuch a Manner, as if you had induſtriouſly ſought to do Prejudice to your own Cauſe. But let us examine, my Lords, what immediately followed.

FOUR Days after the Death of *Sextus Roſcius*, the News was carried to *Chryſogonus* then at *Volaterræ*, in the Camp of *Lucius Sylla*. Let me again aſk, who ſent him this News? To be ſure, the very Perſon who ſent it to *Ameria*. *Chryſogonus*, who knew nothing, either of the Man or the Matter, takes Care that they ſhould immediately ſell his Eſtate. You may aſk, how he came to covet the Eſtate of a Man to whom he was an abſolute Stranger, and whom he never ſaw? My Lords, the natural Anſwer to ſuch a Queſtion is; *To be ſure, ſome Townſman or Neighbour muſt have told him: They* generally are the Informers; *they* are generally the Traitors. Here is nothing to give you any Grounds of Suſpicion: For I will not plead in that Manner. It is *probable*, that the *Roſcii* laid that Matter before *Chryſogonus*; for they lived in Friendſhip with him before that Time: For, tho' the Family of the *Roſcii* had a great many old Patrons and Friends, yet they left off paying their Duties to them, and had put themſelvés under the Patronage and Protection of *Chryſogonus*. I could with great Truth bri[illegible]g

all theſe Allegations to ſupport my Pleading; but in this Caſe, there is no Occaſion for Conjecture. I am poſitive they themſelves do not deny it was by their Inſtigation, that *Chryſogonus* appropriated this to his own Uſe. If, my Lords, you ſhould ſee a Man who has been a Sharer in the Profits arifing from an Information, can you have any Doubt with Regard to the Perſon of the Informer? Who then is in Poſſeſſion of this Eſtate? With whom did *Chryſogonus* ſhare it? The two *Roſcii*. Any body elſe? No, my Lords. Have we any Room then to doubt, that the Perſons who ſhared in the Prey were the ſame who pointed out the Prey to *Chryſogonus*?

LET us now examine the Fact of the *Roſcii* upon the Judgment formed of it by *Chryſogonus* himſelf. If the *Roſcii* had done nothing of Conſequence in that Rencounter, why were they ſo liberally rewarded by *Chryſogonus*? Had they done nothing beſides making a bare Information; had they a Title to any Thing but Thanks? Or, if he had a Mind to do any Thing that was handſome, to ſome Mark of Gratitude? But why was ſo great a Reward as three Eſtates, worth ſo much Money, immediately beſtowed upon *Capito*? Why ſhould that *Roſcius*, poſſeſs the Reſidue in common with *Chryſogonus*? Is it not plain, my Lords, that *Chroſogonus*

gonus, being fully apprized of the Matter, beſtowed thoſe Spoils upon *Roſcius*.

CAPITO was among the ten who were deputed to go to *Sylla*'s Camp. Now learn the whole Hiſtory of his Converſation, Nature and Morals, from his Behaviour on this Deputation: And, my Lords, unleſs you ſhall be convinced that there is no Duty ſo ſacred as to be inviolated by his Guilt, no Law ſo binding as to be uninfringed by his Perfidy, you may pronounce him the beſt of Men.

HE takes Care to hinder theſe Matters from coming to *Sylla*'s Ears: He diſcovers to *Chryſogonus* the Deſigns and Intentions of the other Deputies; He adviſes him to prevent the Thing from becoming a public Tranſaction: He tells him, if the Eſtate ſhould not be put to Sale, that he muſt loſe a great deal of Money, and he himſelf endanger his own Life: He ſpirits up *Chryſogonus*: He impoſes upon the other Deputies: He again, puts *Chryſogonus* in Mind to be upon his Guard: And ſlily gives the other Deputies falſe Encouragement: He enters into Concert with him againſt the others: He betrays all their Deſigns to him: He makes a Bargain with him for his Share of the Prey: And always taking Advantage of ſome Incident,* took Care

* *Taking Advantage of ſome Incident.*] The Commentators

Care to ſhut up all Acceſs to *Sylla*. In ſhort, by his wheedling Advice and Interpoſition, the Deputies never had an Audience of *Sylla*. Impoſed upon by his Inſincerity, or rather by his Treachery, all they brought back with them was an *idle Hope* inſtead of *a ſubſtantial Performance*; this will be confirmed to you by the Teſtimony of the Deputies themſelves, provided the Proſecutor ſhall chuſe to ſummon them here as Evidences.*

When a Man in the private Concerns of Life, from any ſelfiſh View of Profit or Intereſt, managed an Affair entruſted with him, I won't ſay *treacherouſly*, but even *careleſly*; our Forefathers judg'd that ſuch a Man behaved with the higheſt Infamy. Therefore the Penalties incurred by the unfaithful Execution of a Commiſſion, were as infamous as thoſe of a downright Theft. This, I ſuppoſe, aroſe from a Conſideration, that in thoſe Matters where we could not be perſonally preſent ourſelves, the Management of them muſt devolve upon a ſup-

tors are very much divided in the Reading of the Original here. Some reading *fretum*, ſome *aura*, ſome *remora*, ſome *mora*: But I have tranſlated it in the ſame Senſe put upon it by the learned *Facciolati*, who remarks that *Aſinius Polio* was called a Man *Omnium horarum*; that is, fitted for all Manner of *Buſineſs*.

The Proſecutor ſhall chuſe to ſummon them here as Evidences.] The Defendant could not ſummon any Evidences to Facts, but the Proſecutors could.

plemental Truſt delegated to our Friends: The Man therefore who violates this, breaks into the general Rights of the Community, and, as far as in him lies, confounds all the Ties of Society. For it is impoſſible, that we ſhould manage every Thing in Perſon; each Man is peculiarly adapted for a certain Province of Buſineſs. Therefore Friendſhips were formed, that the general Syſtem of public Good might be ſupported by mutual Acts of Benevolence.

WHY ſhould you accept of a Commiſſion, if you deſign either to neglect it, or turn it to your own Advantage? Why do you offer your Service to me, and yet under that Maſk of Friendſhip obſtruct and hurt my Intereſt? Be gone out of my Way; I will do my Buſineſs by another. You think yourſelf equal to the Burden of a Duty which you undertake, and which no Man of common Honeſty will think heavy.

THIS is therefore Infamy itſelf, becauſe it violates the two moſt ſacred Things in the World, *Friendſhip* and *Honeſty*: For no Man gives a Commiſſion to another, unleſs he thinks him his Friend; nor truſts any Man whom he does not believe to be honeſt. He muſt, therefore, be a moſt conſummate Villain who ſhall at once diſſolve the Ties of Friendſhip, and deceive the Man, who but for his truſting him would not have been injured.

WAS

WAS it then neceſſary, that a Perſon who in the ſlighteſt Matters neglected his Truſt, was branded with the moſt infamous Penalty: And in an Affair of this Conſequence, ſhall a Man ſhow his Face among honeſt Men, nay ſhow it among the Living, who being entruſted with the Reputation of the Dead, and the Fortunes of the Living, has betrayed the firſt to Infamy, and THE LATTER TO MISERY?* In the moſt trifling perſonal Concerns, even the Neglect of a Commiſſion is looked upon as criminal, and accounted to be infamous in the Eye of the Law; becauſe if a Commiſſion is punctually executed, the Overſight, if any ſhall happen, does not lie in the Perſon who *receives*, but in him who *gives* that Commiſſion. In an Affair of this kind, where the Tranſaction and the Truſt were public, what Puniſhment can be deviſed equal to the Crime of that Man, who not only injures another in his private Property, but defiles and ſtains by his Treachery the very Oath of a public Commiſſion; I ſay what Pe-

* *And the latter to Miſery.*] This Expreſſion is not in the Original, it being imperfect in this Place; but I am perſuaded there is no Reader of any Taſte, who does not ſee that it muſt have been filled up with an Expreſſion of this or a like Signification; for *Cicero*'s Manner abſolutely requires that ſomewhat ſhould correſpond to *ignominia mortuum affecerit*.

naity ſevere enough can be inflicted upon ſuch a Man?

HAD *Sextus Roſcius*, as a private Perſon, entruſted this Affair to his Management, that he might tranſact and make it up with *Chryſogonus*, and, as he ſhould ſee Occaſion, make uſe of a diſcretionary Power in his Name; is it not plain, that if he had converted the ſmalleſt Matter of the Commiſſion to his own private Advantage, he muſt have been condemned upon an Arbitration to make Reſtitution, and forfeit all Pretences to common Honeſty? Now *Sextus Roſcius* did not in a private Capacity entruſt this Affair to his Management; No, the Charge comes with much heavier Aggravations; for *Sextus Roſcius* himſelf, his Reputation, his Life, and all his Eſtate were *publickly* entruſted by the Aſſembly into the Hands of this *Roſcius*. The Appropriation which *Titus Roſcius* made to himſelf was no paltry inſignificant Affair; for he ſtript him entirely of all his Eſtate; he bargain'd for three Farms for himſelf; and made as light of the Authority of the Aſſembly, and all his Townſmen, as he did of his own Honeſty.

LET us now, my Lords, take a more narrow Inſpection into this Affair, that you may be thoroughly ſenſible there is no kind of Guilt to be conceived, into which he has not plunged.

It

It is infamous, even in the moſt trifling Affairs, to impoſe upon a Partner, even as infamous as in the Caſe I have already mentioned: And with good Reaſon; for a Man who takes a Partner into a Buſineſs, imagines that he has got an Aſſiſtant. To whoſe Succour then can he fly, after having been injured by the very Succour to which he truſted? And thoſe Slips that are guarded againſt with the greateſt Difficulty, ought to be moſt ſeverely puniſhed. We can be upon our Guard to Strangers;* our Boſom-Friends cannot but ſee a great deal more into our Conduct; but who can guard againſt a Partner? For the very diſtruſting him does Injury to our mutual Engagements. Our Forefathers, therefore, were in the right not to look upon one as an honeſt Man who had impoſed on a Partner.

BUT this *Roſcius* has not impoſed on One Partner in a Money Matter; a Thing that is indeed hard, but not intolerable: But he led on, deceived, betrayed to their Enemies, and moſt villainouſly, moſt perfidiouſly impoſed upon Nine Perſons of the faireſt Characters, join'd with himſelf in the ſame Charge, Deputation,

* *We can be upon our Guard to Strangers.*] This Paſſage has likewiſe exerciſed the Wits of Commentators, but it is only for Amuſement, becauſe it is impoſſible to tranſlate it, ſo as that it ſhall not be good Senſe. For if we tranſlate it according to ſome, *we can be fortified againſt Strangers*, it will come to the ſame Purpoſe.

Duty and Commiſſion. They who could have no Miſtruſt of his Guilt, had no Reaſon to entertain any Jealouſy of their Brother Commiſſioner. They had not perceived his Craft, and believ'd the Deluſion of his Lips: For this Reaſon theſe very honeſt Men are now thought to have had too little Caution and Circumſpection, merely becauſe he had too much Craft and Cunning. He who was at firſt a Traytor, and then a Renegade; who firſt divulged the Deſigns of his Partners to their Enemies, and then enter'd into Partnerſhip with thoſe very Enemies; now that he is diſtinguiſhed with three Farms, that is, with three Rewards of his Iniquity, he threatens and bullies us. In your Enquiry into ſuch a Life, my Lords, amidſt ſuch a Complication of Guilt, you will find the very Offence which you are now trying: For your Manner of Proceeding in ſuch an Enquiry ought to be, that if you find a great many rapacious, preſumptuous, villainous, and treacherous Actions, you are to conclude that this Species of Guilt is *concealed* among the others. But indeed this is by no Means *conceal'd*; for it is ſo plain and ſelf-evident, that we have no Reaſon to preſume it from the other Crimes which he has committed, but he may be convicted of all his other Crimes from this one, were there the leaſt Room for doubting them.

THEN

THEN how, my Lords, are we to conclude, that this Prize-fighter has abſolutely laid aſide his Profeſſion, or that the Apprentice has learned ſo little of his Art from his Maſter? In Rapaciouſneſs they are Equals; they are Rivals in Villainy; alike in Impudence, and Twins in Audacity: For as you have been brought acquainted with the Honeſty of the Maſter, I will now introduce you to the Candour of the Scholar. I have already taken Notice, that they were very often required to give up two Slaves to be examined. This, *Titus Roſcius*, you conſtantly refuſed. Let me now aſk you, whether they who required this were of ſo little Conſequence as not to be regarded in their Requeſt; was the Perſon for whom it was required no proper Object of Concern; or did the Demand ſeem unjuſt in its own Nature? They who required it were Men of the greateſt Honour and Integrity in *Rome*, and whom I have already named. Men whoſe Lives and Characters are ſuch with every *Roman*, that their bare Word is ſufficient to obtain was is reaſonable. The Perſon for whom this was required, was one of the moſt unfortunate and unhappy of all Mankind; one who would have willingly yielded himſelf to the Rack, provided it could have promoted the Enquiry into his Father's Murder. And the Thing required was of ſuch a Na-

ture, as that it was the ſame Thing for you to refuſe it, as to confeſs yourſelf guilty of the Fact.

THIS being the Caſe, give me Leave to aſk you, for what Reaſon you refuſed this? Thoſe Slaves were preſent when *Sextus Roſcius* was murdered. As to my Part, I neither accuſe nor acquit the Slaves of the Murder. But the Circumſtances of your refuſing to ſuffer them to be put to the queſtion, begets an ugly Preſumption againſt you: Nay, your careſſing and rewarding them as you do, amounts to a direct Proof that they know ſomewhat, which, if they were to ſpeak out, would be your Ruin. It is unjuſt, ſay you, to make Slaves Evidences by Torture againſt their Maſters. Is this demanded? *Sextus Roſcius* is the Party, and upon his Trial, you don't ſay that you are their Maſters. They are waiting upon *Chryſogonus*; 'tis probable that they are: *Chryſogonus* is quite charm'd with their Learning and Politeneſs, ſo that he has choſen them, tho' they are but labouring Slaves, taken from the Stock of a plain Country Gentleman at *Ameria*, to tutor his pretty Train of Younglings, whom he has picked out of all the choiceſt Stocks of Slaves, in their Improvements in Pleaſure and the liberal Arts. Believe me, my Lords, it is by no Means probable, it never can be, that *Chryſogonus* ſhould fall in

Love

Love with their Learning or Politeneſs, nor that he ſhould have Proofs of *their* Oeconomy and Honeſty. There is a ſecret Motive, which the more induſtriouſly it is conceal'd and ſtifled by them, the more glaring and evident it is in the Eyes of the World.

How then does the Matter ſtand? Is *Chryſogonus* unwilling that thoſe Slaves ſhould be examined, that he might the better conceal his own Guilt? By no Means, my Lords; I am far from thinking that the ſeveral Preſumptions fit all of them equally well. For my own Part, I have no ſuch Suſpicion of *Chryſogonus*: And I have declared ſo before this Time. You may remember, that, at my ſetting out, I divided my Pleading in this Manner; *Firſt*, into the *Charge*, the Management of which falls to *Erutius*. *Secondly*, The *Audacity*, which falls to the Share of the *Roſcii*. Whatever you find in it that relates to Miſchief, Guilt, and Blood, is appropriated to the *Roſcii*; we ſay, that the overgrown Intereſt and Power of *Chryſogonus* is both inſupportable and prejudicial to us; and that we expected, as you have Authority to do it, that you would not only cruſh but puniſh it.

My Way of thinking is, that the Man who is in earneſt, that they who certainly were preſent at the Murder ſhould be examined, is in earneſt

earneſt about finding out the Truth; and that he who is againſt this, tho' he dares not own ſo in *Words*, in Effect confeſſes the Miſdeed. I informed the Court before, that I would not enlarge upon their Crimes farther, my Lords, than the Cauſe required, or Neceſſity obliged me. For, I could bring many Allegations, and ſupport each of them with Variety of Proof. But I never can dwell either long or minutely upon Circumſtances, which I am forced againſt my Will to mention. Whatever was indiſpenſable to my Pleading, that, my Lords, I have but ſlightly touched upon; and as to the preſumptive Proof which I have brought, as I ſhould be obliged to go into a long Train of Arguments were I to enter upon its Merits, I will ſubmit it to the Wiſdom and Sagacity of this Court.

I COME now to the GOLDEN Name * of *Chryſogonus*; a Name under which the whole Confederacy is eſtabliſhed; but ſuch a Name, my Lords, as puzzles me to find out how I can ſuppreſs, or how I can mention it: By ſuppreſſing it, I ſhould leave out the beſt Part of my Pleading; by mentioning it, I am afraid that not only he, tho' I don't much mind that, but

* *Golden Name.*] This is a Pun upon the Word *Chryſogonus*, which is compounded of χρυσος, Gold, and γονος, Seed.

but many others will judge themſelves aggrieved. Yet the Caſe is ſuch, that it does not at all ſeem neceſſary for me to enlarge much upon a common Charge againſt all Brokers. For, indeed, this Cauſe is new and ſingular in its own Nature.

Chryſogonus was the Purchaſer of the Eſtate of *Sextus Roſcius*. Let us now, in the firſt Place, enquire for what Reaſon this Eſtate came to Sale, and in what Manner it could be ſold. I will not, my Lords, treat this Enquiry as if it were an infamous Thing that the Eſtate of an innocent Perſon ſhould be ſold at all. For were I at Liberty to talk, and you to hear all I could ſay on this Subject, *Sextus Roſcius* was too inconſiderable a Member of this Government to become the chief Inſtance of ſuch Oppreſſion. I will therefore, confine my Examination of this Point to this ſingle Conſideration; By what Law relating to Proſcriptions, call it *Cornelian*, or call it *Valerian*,* (for I neither know nor care which) I ſay by what Law had they any Power to ſell the Eſtate of *Sextus Roſcius*?

THEY

* *Cornelian* or *Valerian*.] *Valerius Flaccus* was created *Interrex* upon the Death of the two Conſuls *Marius* and *Carbo*. In this Quality he created *Sylla* Dictator, and paſſed a Law at the ſame Time, that all his Acts ſhould be valid. *Cicero*, in this Place, has a very contemptuous Inſinuation, both with Regard to his Authority, and that of *Sylla*, whoſe Laws were called *Cornelian*.

THEY tell us the Letter of the Law is, THAT THE ESTATES OF THE PROSCRIB'D SHALL BE SOLD: But *Sextus Roſcius* was not proſcribed. TOGETHER WITH THE ESTATES OF ALL THOSE WHO ARE KILL'D IN THE GARRISONS OF AN ENEMY. While Garriſons were kept up, he was in thoſe of *Sylla*; and after the Public had gain'd a Breathing from Arms, he was murdered at *Rome*, in a Time of deep Tranquility, as he was returning from Supper. If this was *legal*, I ſhall admit the Sale of his Eſtate was *legal* too. But if it ſhould appear that this was done contrary to all Laws, the new as well as the old, give me Leave to aſk by what Law, Title, or in what Manner, could this Eſtate be put up to Sale?

You want to know, *Erutius*, againſt whom I point this: Not againſt him whom you wiſh and think of; for from the very Beginning of my Pleading, my Speech, and his own matchleſs Virtues, which he every Hour diſcovers, have clear'd *Sylla* from all ſuch Imputation. I aver, that all their Management was thro' *Chryſogonus*; the Lies that were told; the pretending that *Roſcius* was an undutiful Subject of the State; the Forgery of his being killed in the Garriſon of the Enemy; and the intercepting all the Information which *Sylla* ought to have had

had upon this Head from the Deputies of *Ameria*. In ſhort, my Lords, I have a ſtrong Preſumption for believing, that this Eſtate in Fact never was ſold: This is a Point which if the Court will give me Leave, I ſhall by and by open more fully.

I apprehend that the Law names the Day on which all Proſcriptions and Sales are determinable; and that is, the firſt Day of *June*; ſeveral Months before the Death of this Perſon and the Sale of his Eſtate. Give me Leave, therefore, to ſay, that either this Eſtate never was enter'd into any of the Treaſury-Books;* and if ſo, this Fellow has dup'd us by a more ridiculous Trick than we are aware of; or, if it appears upon any ſuch Book, it muſt have been forg'd by ſome Means or other. For, it is plain, that by Law, the Eſtate could not be ſold. I am ſenſible, my Lords, that I am entering too prematurely upon this Diſquiſition, and therefore, am under Correction, becauſe I am minding a Scratch, while I ſhould be endeavouring to ſave the Life of my Client: For his Anxiety proceeds not from Money; nor has he Regard to any Conſideration of Intereſt; acquit him but of this infamous Charge, this groundleſs Impeachment, and he thinks he can eaſily

* *Treaſury-Books.*] The Commiſſioners of the Treaſury kept Books for entering all Money ariſing from the Sale of proſcrib'd Eſtates.

eaſily bear all the Preſſures of Poverty. But, my Lords, I beg you would hear what I am now to ſay, with that indulgent Attention, as if I myſelf, as well as *Sextus Roſcius*, were a Party concerned. For, my Lords, when I conſider the Hardſhips and Oppreſſions of this Caſe, when I conſider that they may in general be the Lot of unſuſpecting Innocence; I *feel for myſelf*; and what I ſpeak proceeds from the ſtrongeſt Conviction, and the deepeſt Anguiſh. As to what concerns the Misfortunes and Situation of my Client, the Defence he has to offer for himſelf, and the Condition that would content him; all that, my Lords, I will reſerve to the latter Part of my Pleading.

As I ſpeak for myſelf, therefore, ſuppoſing *Roſcius* to be left out of the Queſtion, I ſhould be glad, if *Chryſogonus* would tell me, in the firſt Place, why the Eſtate of a worthy Citizen was ſold? And as the Law is only meant of thoſe who are killed in the Enemy's Service, or proſcribed, how came the Eſtate of a Man who was neither, to be ſold? Then, why was this Sale made ſo long after the Time preſcribed by Law? Then, why was it ſold for ſuch a Trifle? Now, tho' after the common Practice of knaviſh and profligate Freed-men, the Blame of all this ſhould be laid upon the Patron; that won't account for it: For every Body is ſenſible,

ble, that in ſuch a Multitude of Concerns, a great many People did a great many Things, partly without the Approbation, and partly without the Knowledge of *Sylla*.

You chuſe then, that in ſuch Matters ſome Slips ſhould be made thro' Inattention? No, my Lords, this is not *Choice* but *Neceſſity*. For, if *Jupiter*,* THE BEST AND THE GREATEST, whoſe Will and Pleaſure controuls the Heavens, the Earth, and the Seas, by ſweeping Winds, unruly Storms, intenſe Heat, or intolerable Cold, often hurts Mankind, demoliſhes Cities, or deſtroys the Harveſt, we are not to conclude, that theſe are any of the Effects of a miſchievous Diſpoſition in the Deity, but of the unruly, unwieldly Syſtem of natural Cauſes; while at the ſame Time we are ſenſible, that all the Comforts we poſſeſs, the Light we enjoy, and the Air we breathe, are the Gifts and Bleſſings of his Providence. Are we then to wonder, that *Lucius Sylla*, on whom alone was devolved the Management of the State, the Government of the World, and the Majeſty of this Empire, recovered by his Arms, and eſtabliſhed by his Laws, ſhould be ſometimes ſurprized through Inattention to particular Objects? Are we to wonder that human Wiſdom cannot compaſs what is

* *For if* Jupiter.] This is a very odd Kind of Divinity of our Author, however, it might ſerve his Purpoſe.

is too difficult for Divine Power? But, that I may omit what has already happened, is it not plain, from what is *now* doing, that *Chryſogonus*, who entered this Impeachment, is the ſole Contriver and conductor of the whole. In this Trial which is nominally carried on by *Erutius*.

* * * * * * * * * * * *

[*Here is a Chaſm in the Original.**]

OTHERS of them who live in the Fields of *Salentum* and *Brutium*, where they don't hear three Times a Year what is doing in the World, and imagaine that they lead a very convenient agreeable Life.

BUT the other marches down to you from his Seat upon the *Palatium*; he has there a pleaſant Country Seat near the City to retire to, in order to relieve his Mind from the Fatigues of Buſineſs; beſides many other Eſtates, each of them ſumptuous and adjoining. His Houſe filled with Vaſes from *Corinth* and *Delos*; among which is that famous portable Stove, for which he lately gave ſo great a Price, that Strangers who heard the Auction as they paſt, imagined that an Eſtate was ſelling. How many other imboſſed Pieces of Plate, Quilts, Pictures,

* *The Chaſm.*] It appears by this Chaſm, that we loſe that Part of *Cicero*'s Reaſoning which ariſes from the Manner of Life of thoſe Men who impoſed upon *Sylla*, and which our Author probably deſcribed in this Place.

Pictures, Statues, and marble Ornaments may you imagine he poſſeſſes beſides? To be ſure as many as he could cram into one Houſe from the Plunder and Devaſtation of many noble Families.

NEED I to mention his Retinue and the elegant Variety of Trades in his Equipage? Not to name thoſe of vulgar Callings, ſuch as Cooks, Bakers, Chairmen, he has ſo many Operators for amuſing the Eyes and Ears in his Pay, that the whole Neighbourhood reſounds with his Concerts of Voices, Fiddles, and Flutes, by Day; and his Revels by Night. What great Expences, what Profuſion, my Lords, muſt it require daily to ſupport ſuch a Life as this? But as to his Entertainments, no doubt they are innocent, eſpecially as they are made in ſuch a Houſe as his is; if we can call it a Houſe, and not rather a Shop for Villany, and an Inn for all Manner of Wickedneſs.

IN what Manner he ſwims along the *Forum* with his well-dreſt perfumed Locks, and ſweeping Train of *Romans*, yourſelves, my Lords, are Witneſſes: Nay, yourſelves, my Lords, are Witneſſes how he looks down upon all Mankind, how he holds them in Contempt, that he thinks nobody a Man beſides himſelf, and imagines himſelf alone poſſeſt of Happineſs and Power.

BUT, my Lords, were I to mention what he is effecting, and what he is attempting, I am afraid that by thoſe who know no better, it ſhould be thought that I meant to throw a Reflection upon the Cauſe of the Nobility, and to detract from their Victory. Yet, my Lords, I have a Title to cenſure that Party, if I think any Thing in it amiſs; becauſe I am ſure nobody will imagine that I am diſaffected to the Intereſt of the Nobility. For all who know *me*, know, that according to my mean, ſlender Abilities, after an Accommodation, the Thing that I moſt earneſtly wiſh'd for, was rendered impracticable, my chief Endeavours were that Victory might declare herſelf in the Manner ſhe has done: For no Man was inſenſible, that the Diſpute lay about Pre-eminence betwixt the *Mean* and the *Great*; and in ſuch a Caſe, what *Roman* could be ſo profligate as not to join that Party, whoſe Safety was connected with that of the public Dignity at home, and the public Authority abroad. I am overjoyed, my Lords, I am raviſhed to ſee that theſe have been preſerved, and that every *Roman* is reſtored to the Poſſeſſion of thoſe Honours, and that Degree to which he is entitled; and I am gratefully ſenſible that all this was effected by the Will of the Gods, the Affections of the *Roman* People, and the Wiſdom,

dom, the Command, and Fortune of *Lucius Sylla*.

As to the Penalties inflicted upon thoſe who made ſo ſtrong an Oppoſition, I am not at Liberty to condemn them; As to the Regard ſhewn to thoſe brave Men who diſtinguiſhed themſelves in that Struggle; this, if I miſtake not, was the very Intention of the Struggle; and I own, that this was the true Object of my Concern in this Affair. But, if the End of all our Endeavours, if the Fruit of all our Diſputes is, that the moſt infamous of Mankind ſhould be enriched with the Eſtates of others; and make an indiſcriminate Attack upon the Fortunes of every Man that is in the Way of their Ambition; if we are to be ty'd up not only from *acting* but from *ſpeaking* againſt ſuch Practices; then the *Roman* People, inſtead of being *recovered* and *redeemed*, has been *ſunk* and *oppreſſed* by this War.

BUT the Caſe is quite otherwiſe; let us away, my Lords, with thoſe Suggeſtions; no, the Intereſt of the Nobility will be ſo far from receiving Harm, that it will receive Honour from your Oppoſition to ſuch Men. For they who blame the Actions I have touch'd upon, are ſorry that *Chryſogonus* has ſo much Power; they who love to juſtify them deny that he has it.

BUT there is no-body now ſo much of a Fool, or a Knave, as to ſay, IF I DURST TO HAVE SPOKEN I WOULD HAVE SAID.—Out with it, what are you afraid of? I WOULD HAVE DONE.—Do it, who is to hinder you? I WOULD HAVE DECREED.—Decree; and if you are in the right, you will have the public Voice to thank you. MY JUDGMENT WOULD HAVE BEEN.—Speak it, the whole World will be your Friend if it is juſt and regular. While the public Exigencies rendered it neceſſary, one Man exerciſed an abſolute Authority; but after he had created Magiſtrates, and enacted Laws, every Man was reſtored to his own Sphere of Action, and Share of Power. If the preſent Poſſeſſors who have been thus reſtor'd have a Mind to preſerve it, they may have it as long as they live; but, if they ſhall either commit or approve of ſuch Murders, ſuch Rapine, and ſuch Profuſion of Expences, I will indeed, for the Omen's Sake, forbear to ſay any Thing againſt them that is ſevere; but one Thing I will ſay, that unleſs our great Men are poſſeſt of the Virtues of Temperance, Meekneſs, Courage, and Mercy, they muſt of Neceſſity reſign their Badges of Diſtinction to thoſe who are. Therefore, let it never be heard of, that a Man ſpeaks *indecently*, when he ſpeaks with Truth and Freedom. Let them no more make the Intereſts

of

of *Chryſogonus* a common Cauſe with their own; let them no more imagine, that any Check which he may receive, is a Diminution of their Honours. But let them reflect how wretchedly ſcandalous it is, if they, who could not bear with the Luſtre of the Equeſtrian Order, ſhould bear with the domineering Inſolence of the vileſt Slave.

THIS was an Inſolence, my Lords, which formerly ſeemed to be exerciſed on other Objects; but you may perceive what Road it is now marking out, and to what Purpoſes it proceeds. No leſs than to your Integrity, Oaths, and Judicatures; to almoſt every Thing that remains in this State unpolluted and holy. Does *Chryſogonus* then imagine, that he has any Influence here, or that his Power extends even over this Bench? Heart-breaking Thought! By Heavens, my Indignation does not ariſe from any Fear that it does; but from reflecting that he durſt have the Preſumption, the Impudence to hope, he could biaſs This Court to the Deſtruction of the Innocent; 'tis that which gives me Pain.

DID our arous'd Nobles reſtore their Country to Liberty by Arms and Bloodſhed, that Freedmen and the meaneſt Slaves of the Great, ſhould have it in their Power to oppreſs and harraſs you and us out of our Eſtates and Property! If this was the Caſe, I own I was in

the wrong for chuſing as I did; I own myſelf mad, for having been of their Party; but, my Lords, I was of it without carrying Arms to the Field. Yet if Victory ought to add Luſtre to our Nobility, and communicate Happineſs to our Country and the People of *Rome*, then ought theſe Sentiments of mine to give Pleaſure to every excellent, to every noble *Roman*. But if there is a Man who thinks himſelf, or his Party injured, by my expoſing *Chryſogonus*, he knows not the Principles of his own Party, nay, he ſcarcely knows himſelf. For the Party would appear ſtill more noble, ſhould it declare War againſt every bad Man. Every degenerate Abettor of *Chryſogonus*, who imagines his Intereſts linked with his own, injures himſelf; ſince by that very Conduct he detaches himſelf from the Glories of his Party.

But as I obſerved before, all that I have yet ſaid is in my own Perſon, and has been wrung from me by the Wrongs done to my Country, my own Grief, and the vile Practices of theſe bad Men. But my Client feels not this Indignation; he impeaches nobody; he complains not of his ruined Fortune. A Stranger to the World, accuſtomed only to Fields and Flocks, he imagines that all you have acted under the Shelter of *Sylla*'s Name to be cuſtomary, legal, and agreeable to the Law of Nations. Abſolve

him

him from the Crime; clear him from the Charge of unnatural Guilt, he will joyfully bid you farewel. Free him but of this Imputation of Infamy, and he ſays, that he will chearfully part with all the Comforts of Life: He requeſts, he begs of you, *Chryſogonus*, that if out of all the opulent Fortune left him by his Father, he has ſaved nothing for himſelf; if in no Reſpect he ever did *you* wrong; if honeſtly, and faithfully he made over in Tale and Weight his All to you; if he gave you even the Cloaths from his Back, and the Ring from his Finger*; if he ſtript himſelf of all his Effects without the leaſt Reſerve, that you would give him Leave to enjoy the Remainder of his Life with the Aſſiſtance of his Friends in Innocence and Poverty.

You poſſeſs my Eſtate, while I ſubſiſt upon the Charity of others. I am contented; both becauſe I have an unrepining Mind,. and Neceſſity obliges me. My Doors are open to *you*; to *me* they are ſhut: I ſubmit. You are ſerved by my numerous Retinue; while I have not a ſingle Slave to attend me: I ſuffer it, and think it my Duty. What would you

 more?

* *Ring from his Finger.*] We are not to imagine, that he actually gave him the Ring from his Finger; for this is a Way of ſpeaking, to expreſs that he was only ſtript very bare. See *Juven. S.* 11.

Talibus a Dominis poſt cuncta noviſſimus exit
Annulus.

more? why do you perſecute; why do you attack me? In what Inſtance have I croſs'd your Will? In what Reſpect do I obſtruct your Intereſt? How do I ſtand in your Way? If you wanted to murder a Man for Plunder, the Plunder is yours; what would you more? If from Reſentment, what Reſentment could you harbour againſt the Man whoſe Eſtate you poſſeſt before you knew his Perſon? Do you fear him? But why fear any Thing from him whom you ſee unable to repel ſo cruel an Injury from himſelf? But if you want the Deſtruction of the Son, becauſe you poſſeſs the Eſtate of the Father, is it not plain, you are afraid of a Thing which you of all Mankind need not to fear, that the Eſtates of the Proſcrib'd ſhould be reſtored to their Children.

You are miſtaken, *Chryſogonus*, if you imagine that your Poſſeſſion of this Bargain will be better ſecured to you by the Death of *Roſcius*, than by the Actions of *Sylla*. But if you have no Reaſon for perſecuting the unhappy *Roſcius* with ſuch a Load of Miſery; if to you he has reſigned all but his Life, without reſerving ſo much of what belong'd to his Father, as may ſerve as a Monument of him; Immortal Gods, why all this Cruelty? Why this ſavage, this unrelenting Diſpoſition? Was ever Robber ſo inhuman; was ever Pyrate ſo barbarous, as when he could have his Booty entire and bloodleſs, to carry it away by Murder?

You

You know that this Man has nothing; can dare nothing, can do nothing; nor did ever contrive to thwart your Intereſt: Yet you perſecute the Man whom you cannot fear, whom you ought not to hate, and whom you ſee has nothing now left for you to ſtrip him of. Unleſs you take it ill to ſee the Perſon whom you drove naked from, as it were, the Shipwreck of his Fortune, now ſitting cloath'd at his Trial. Surely you know that for Food and Rayment he is beholden to that excellent Lady *Cæcilia*, the Daughter of *Baleariсus*, and Siſter of *Nepos*. Tho' ſhe had an eminent Father, noble Uncles, and an accompliſhed Brother, and, tho' ſhe is a Woman, yet her Merits are ſuch, that her Virtue reflects as much Luſtre upon *them*, as their Dignity communicates Honour to *her*.

Does it gall you to ſee that he is reſolutely defended? Believe me, ſhould all thoſe Gueſts whom his Father made his Friends by his Hoſpitality and good Offices, appear here, and undertake his Defence with Freedom and Spirit, he would have a numerous Band of Defenders. But if they ſhould be puſh'd on to Revenge, in Proportion to the Greatneſs of the Injury, and the Dangers of his Country in his Perſon, you would not, by Heavens, be at Liberty to appear in this Place. The Defence that is *now* made for him is ſuch, that it can give his Enemies

no

no Uneaſineſs, nor any Cauſe to imagine that they are overpower'd.

As to what paſſes within Doors, that falls to the Management of *Cæcilia*; you may perceive, my Lords, that *Meſſala* has undertaken to conduct all the Buſineſs of the *Forum* and the Court; and if Age and Strength had ſerved him, he himſelf would have pleaded the Cauſe of *Roſcius*. But becauſe his Youth and his Modeſty, which is the Beauty of Youth, prevents his ſpeaking, he has entruſted with me this Cauſe, who he knew, for his Sake, deſir'd it as a Duty. It is by his Activity, Addreſs, Authority, and Application, that the Life of *Roſcius* has been reſcued from the Hands of theſe Brokers, and reſigned to the Juſtice of this Court. And give me Leave to ſay, my Lords, it was for Nobility like this, that the greateſt Part of our Country took Arms. This Scene was acted to reſtore to the State thoſe Nobles who can do as you ſee *Meſſala* does now; defend the Life of the Innocent; redreſs Injuries; and chuſe to ſhew their Power, not by the deſtroying, but delivering their Neighbour. Should all in that high Station behave in this Manner, their Country would ſuffer leſs from them, and they leſs from Envy.

BUT, my Lords, if we cannot prevail upon *Chryſogonus* to be contented with our Eſtate, but he muſt have our Life too; if after taking from us

us all that was our own, he cannot be diſſuaded from endeavouring to ſhut us out from the Light which is common to all Mankind; if it is not ſufficient for him, that his Avarice is glutted with our Eſtate, unleſs his Cruelty be ſatiated with our Blood, the miſerable *Roſcius*, my Lords, has but one Hope, one Shelter left; which is the ſame with that of his Country; he throws himſelf upon your experienc'd Charity and Mercy; If that ſtill exiſts we may yet be ſaved; but if, what is next to impoſſible, the Cruelty that predominates in this Age and Country, has hardened and inflamed your Minds, we have done. My Lords, better is it to lead a Life with the Brutes, than converſe with ſuch Inhumanity.

HAVE you been reſerved, have you been choſen for this Purpoſe, to condemn thoſe whom Brokers and Aſſaſſins could not murder? Able Generals, when they give Battle, uſe to place Troops in the Defiles thro' which the Enemy is moſt likely to fly; that they who eſcape from the Battle may fall into the Ambuſh. Theſe worthy Brokers ſeem, in like Manner, to imagine, that ſuch Men as you ſit here to intercept thoſe who eſcape out of their Hands. The Gods forbid it, my Lords, that this Court, which our Anceſtors intended for the Seat of public Deliberation, ſhould become a Sanctuary for Brokers.

SURE,

SURE, my Lords, you are not yet to learn, that the whole Matter now in diſpute is, how to take the Children of the Proſcrib'd out of the way by any Means; and that a Precedent for this is ſought from your Authority, and in the Perſon of *Roſcius*. Is it hard to ſay who is guilty of this Crime? When you *now* ſee on the one Side, a Broker, an Enemy, and a Murderer, all in the Perſon of our Accuſer? And on the other Side, a Son who is ſtript of his All, dear to his Friends; and on whom it is impoſſible, not only to fix any Guilt, but even the Suſpicion of it? Can you perceive any Thing here that can affect *Roſcius*, excepting the Sale of his Father's Eſtate?

BUT if you have undertaken that; if you offer your Aſſiſtance to the ſame Work; if you ſit on that Bench, that the Children of thoſe whoſe Eſtates have been ſold, may be brought before you; by the Immortal Gods, you had need to take Care, that you don't ſet on Foot a new and more inhuman Proſcription. The Senate refuſed to undertake * the Former, in which thoſe fell who took up Arms, leſt the public Authority ſhould ſeem to countenance a Proceeding more ſevere than any known to our Anceſtors. But unleſs you diſcountenance and diſcourage,

* *The Senate refuſed to undertake.*] *Sylla* was obliged to apply to the People, whom he over-awed by a Standing Army, to have his Proceedings with regard to the Proſcriptions approved of.

courage, by the Event of this Trial, this Proſcription which affects their Children even in their Cradles; look to it, by Heavens, you know not to what a Paſs of Miſery you may bring your Country.

MEN of your Senſe, Authority and Power, ought to be the chief Phyſicians for thoſe Evils that chiefly diſtreſs the State. There is not a Man amongſt you, who is not ſenſible, that the *Romans* who were once merciful to their Enemies, are at this Time extending their Cruelty to their Countrymen. Away, my Lords, with this Bane of your Country; ſuffer it no longer to haunt this Government; not only as it is in its own Nature pernicious, by giving Occaſion to the cruel Murders of ſo many *Romans*, but as it has, by the Habits of Barbarity, rooted from the mildeſt Natures the Sentiments of Compaſſion. For when, every Hour, we are ſeeing or hearing of ſome cruel Action, even the gentleſt Diſpoſitions, by the repeated Objects of Barbarity, are apt to loſe all Senſe of Humanity.

The Commentators think there is ſomething deficient in the End of this ORATION.

The End of the ORATION *for* Roſcius.

ARGU-

ARGUMENT
OF THE
ORATION
FOR
C. RABIRIUS.

TITUS ATTICUS LABIENUS, *Tribune of the People, impeached* C. Rabirius *of the Murder of* Saturninus, *who thirty ſix Years before had entered into the Capitol, and was declared an Enemy to the* Roman *State by the Senate. Being condemned by the* Duumviri, *he appealed to the People in the* Centuriated Comices, *before whom this Oration was pronounced. As the Queſtion very ſenſibly affected the Rights of the Senate and Nobility, the latter did all they could to keep the Trial off, but to no Purpoſe. And ſo ſtrong was the Spirit of the People upon this Occaſion, that* Rabirius *muſt have been condemned, had not* Metellus Celer, *the Prætor, prevented it, by taking away the military Enſign from the* Janiculum, *by which the Aſſembly was diſſolved in Courſe, before they gave Sentence.*

M. T.

M. T. CICERO'S

ORATION

FOR

C. RABIRIUS,

Before the PEOPLE.

IT is, my Countrymen, unuſual for me in the Beginning of my Pleading to account for the Motives that prevail with me to undertake the Defence of my Client, becauſe I think I never can want juſtifiable Reaſons * for intereſting myſelf

* *Juſtifiable Reaſons.*] This is a very artful Preamble of a Speech before a popular Aſſembly of *Romans*, which collectively was ſuperior to the Senate themſelves; and the more ſo, as it came from the mouth of a Conſul. No People were ever naturally more ſuſceptible of Flattery than the *Romans*, or more jealous of their own Dignity. It may be worth Pains for the Reader to compare the

ſelf in the Diſtreſs of all my Fellow Citizens But in this Defence of * the Life, the Character and the Fortune of *Caius Rabirius*, I think it proper to lay before you the Motives of my Conduct; becauſe the Reaſons, which in my Eyes appeared to juſtify *me* the moſt in defending, ought in my Opinion to be *your* ſtrongeſt Inducement for acquitting him.

FOR a long Courſe of Friendſhip, the Dignity † of his Perſon, the Duties of Humanity, and the conſtant Tenour of my Practice at the Bar, has prevailed with me to defend *Rabirius*; but then, the Preſervation of the State, my Duty as a Conſul; in ſhort, the Conſulate itſelf, which, together with the Safety of my Country, has been entruſted in my Hands in Conjunction with you, calls upon me to defend him to the utmoſt of my Abilities. or *Caius Rabirius* is brought to this Trial not on account of any Miſdemeanor, not on account of any Jealouſy of his Conduct

the different Preambles which *Cicero* uſes, which will give him an Opportunity of obſerving with what Addreſs he ſuits himſelf to Characters and Occaſions.

* *The Life.*] As this was a Proſecution for the Crime of High Treaſon againſt the Majeſty of the People, if *Rabirius* had been condemned, he muſt have been put to Death in a very ignominious Manner. For all public Traytors who were convicted before the People were firſt ſcourged with Rods, then dragged through the Streets by a Hook, and then crucified like a common Slave.

† *The Dignity*] We are told by *Dion*, that *Rabirius* was a Senator.

duct, or Blemiſh in his Morals; nor, in ſhort, of any old, juſt and weighty Reſentment of his Fellow Citizens: But that the nobleſt Remedy * for the Preſervation of our Majeſty and Empire, handed down to us from Age to Age by our Anceſtors, ſhould be aboliſhed out of the Conſtitution: That henceforth the Authority of the Senate, the Power of the Conſuls, and the Unanimity of the Worthy, ſhould be of no Effect againſt what muſt bring Ruin and Deſtruction upon this State: For this Purpoſe it is, that a ſingle Perſon is attacked in a weak and helpleſs old Age.†

THEREFORE if the Duty of a worthy Conſul calls upon him, when he ſees all the Fences

 weakened

* *Nobleſt Remedy.*] He means the *Senatus Conſultum* which uſed to be iſſued out in Caſes of imminent Danger, *Ut viderent Conſules nequid Rep. detrimenti caperet*, That the Conſuls ſhould take Care the Repulic ſhould ſuffer no Damage. This was iſſued out under the Conſulate of *C. Marius* and *L. Valerius* at the Time *Saturninus* was killed.

† *Weak and helpleſs old Age.*] We are not to imagine, that *C. Rabirius*, who was a Man of Quality and Intereſt, was ſo very deſtitute of Friends as he is here repreſented; but it was a Mark of Reſpect which the *Romans* always expected of thoſe who were accuſed, that they ſhould be repreſented as the greateſt Objects of Compaſſion. For this Purpoſe the latter ſubmitted to the moſt abject Behaviour. *Rabirius* was indeed an old Man; for the Treaſon, of which he was accuſed, was committed thirty-ſix Years before, and if he was at the Time of that Fact of a Senatorial Age, which was thirty, he muſt have been at leaſt ſixty-ſix when this Oration was delivered.

weakened or plucked up, that the State can depend upon to bring Relief to his Country, to ſupport the Safety and Fortune of the Community, to implore the public Juſtice; and to look upon his own Safety as but ſecond to that of the State; it is at the ſame Time the indiſpenſible Duty of brave and virtuous Citizens, ſuch as you have approv'd yourſelves in all the Exigencies of your Country, to cut off every Communication of Sedition, to ſtrengthen the Safety of the Government, to be convinced that the higheſt executive Power* is entruſted with the Conſuls, and the higheſt Deliberative is veſted in the Senate; and to judge that the Man who makes this Maxim the Rule of his Conduct, has a Title to Rewards, and Honours, rather than Pains and Penalties. The Taſk therefore, for defending *Rabirius* falls chiefly to my Share; but my Zeal for his Preſervation ought to be in common with you.

YOUR Sentiments upon this Occaſion, my Countrymen, ought to be, that in the Memory of

* *Higheſt executive Power.*] This is a ſmall Sketch of the *Roman* Conſtitution, ſo far as relates to the Power of the Senate and the Conſuls: But we are to remember, that *Democracy*, or the Power of the People was the ruling Principle in the *Roman* Republic. What *Cicero* ſays here, relates only to the ſuddên unforeſeen Exigencies of State, wherein the Senate had a Power to deliberate upon what was to be done, and to entruſt the Execution of it to the Conſuls.

of Man no Cauſe more important in itſelf, more dangerous in its Conſequences, more to be guarded againſt by you all, was ever undertaken by a Tribune of the Commons, defended by a Conſul, or brought before the People: For in this Cauſe, my Countrymen, nothing elſe is in Diſpute, but that there never henceforth ſhall be any public Meaſure concerted by the Government, any Unanimity of Patriots, againſt the Madneſs and Preſumption of the Profligate, nor any Succour or Shelter to which our Country can retire when her Intereſts are upon the Verge of Ruin.

As Matters are in this Situation, let me firſt do what I am indiſpenſibly obliged to do in this important Diſpute for the Safety, Honour and Fortunes of *Romans* in general; let me implore the Pardon and Grace * of *Alwiſe and Almighty* JOVE, and the other Immortal Beings, by whoſe Power and Aſſiſtance, much more than by human Foreſight and Wiſdom, this State is directed; and I implore them, that they will ſuffer this to be a Day of Deliverance to my Client, and Preſervation to my Country. In the next Place, I conjure you, my Countrymen, whoſe Power approaches

* *The Pardon and Grace.*] Orig. *Pacem ac veniam peto. Pacem*, that he may be *reconciled*; *veniam*, that he may be *propitious*.

next to that of Immortal Gods, ſince at the ſame Time the Life of *Caius Rabirius*, the moſt wretched and moſt innocent of Mankind, and the Safety of the State depends upon your Conduct and Voices, that you will extend your uſual Clemency to the Relief of the Accuſed, and exert your wonted Wiſdom in the Preſervation of your Country.

AND now, that you, *Titus Labienus*,* have hampered my Zeal by the Straitneſs of the Time, and have confined the due and meaſur'd Space, commonly allotted for a Defence, within the narrow Bounds of half an Hour, we ſhall obey your Terms, which as you are an Accuſer, are *unjuſt*, and as you are an Enemy, *unmerciful*, in this Limitation of half an Hour, you have left me only the Character of a *Pleader*†, but taken from me that of a *Conſul*. For as the Time is ſcarce ſufficient for making

* *Titus Labienus*.] This was the ſame *Labienus* who ſerved under *Cæſar* in *Gaul*. He was this Year Tribune of the People, and this Proſecution was carried on by him. "It ſhould appear, ſays *Manutius*, from this Paſſage, that "in Accuſations of Treaſon, the Accuſer had a Right to "preſcribe the Length of Time allowed to the Accuſed "for making his Defence." If this is true, the Accuſed were under a great Hardſhip.

† *The Character of a Pleader*.] The Meaning of this Paſſage is, That the half an Hour was ſufficient for *Cicero*, as Counſel for *Rabirius* to clear him of the Charge, but that it was not ſufficient for him as a Conſul, to ſhew the dangerous Conſequences of ſuch an Attack upon his own Authority, and that of the Senate.

making the *Defence*, it muſt be too ſcanty for entering my *Complaint*.

THE Time, I ſay, is ſufficient for making the Defence, unleſs you imagine, that I am to take up a great deal of Time in anſwering you with regard to the hollowed Places and Groves, which you pretend were violated by him. A Charge on which you did not ſpeak a ſingle Word, but that it had been urged by *Caius Macer** againſt *Rabirius*. And here I am amazed, that you ſhould remember the ſpiteful Charge of *Macer*, who was his Enemy, and forget the equitable Deciſion of the Judges, who were Men of Honour, and upon their Oaths.†

MUST I explain in a long Harangue the

* *Caius Macer.*] It ſhould appear from this Paſſage, that *Rabirius* had been before accuſed by this *Macer* for violating certain ſacred Places, and that *Labienus* had brought ſome Part of *Macer*'s Pleading upon that Head, into his Charge upon this Accuſation. The Commentators are of Opinion, that this is the ſame *Macer*, who being condemned by *Cicero* when Prætor, put himſelf to Death to avoid his Sentence. See *Cic. ad Atticum, Ep. 7. L. 1. Nos hic incredibili ac ſingulari populi voluntate de* C. Macro *tranſegimus cui cum æqui fuiſſemus, tamen multo majorem fructum ex populi exiſtimatione, illo damnato, cepimus, quam ex ipſius, ſi abſolutus eſſet, gratiâ cepiſſemus.*

† *Upon their Oaths.*] The Judges who were impannel'd by the Prætor, were obliged in like Manner as our Jury, on every Cauſe, to ſwear that they would give a fair Verdict; but the Prætor himſelf never took any Oath, having been ſworn at his Entrance upon his Office, to obſerve the Laws in general. It appears, that the Judges acquitted *Rabirius* upon *Macer*'s Impeachment.

Charge of Embezzlement,* and burning the Regiſter, a Crime of which *C. Curtius*, a Kinſman of my Client, was moſt honourably acquitted by an illuſtrious Deciſion, as his Virtue deſerved; but as to *Rabirius* himſelf, he was ſo far from being brought to Trial, that he never fell, even in Diſcourſe, under the ſlighteſt Suſpicion on account of this Charge. Muſt I be at a good deal of Pains to clear him with regard to his Siſter's Son? You ſay *Rabirius* killed him, that the Pretext of attending the Funeral † of a Relation might put off the Trial. For what is more probable, than that his Siſter's Huſband was dearer to him than his Siſter's Son? Inſomuch that the one was cruelly deprived of Life, while two Days were begg'd for the other, in order to put off his Trial. Am I to enlarge upon thoſe Slaves, who were another Man's Property, and detained in Defiance of the *Fabian* ‡ Law; or the *Roman* Citizens, who

* *Embezzlement.*] This ſeems to have been another Topic of Accuſation againſt *Rabirius*, and the following are Charges which ſeem to have been invented by the Violence of the Times, and the Spite of the Proſecutors.

† *The Funeral of a Relation.*] The *Romans* had a very great Regard to the Funeral Rites, inſomuch, that by the Prætor's Edict, no Man who was performing any Part of Funeral-Duties to a Friend or Relation, could be obliged to appear before any Court of Juſtice.

‡ *The* Fabian *Law*] *Ne quis ſervum alienum, invito vel inſc. domino, celaret, vinctum haberet, emeret ſciens dolo malo. L. Pen & ult. D. ad Leg. Fab. de Plagiar*; that is,

who were ſcourg'd or put to Death contrary to the *Portian* * Law; when *Caius Rabirius* is ſo zealouſly recommended by all *Apulia*,† and ſo highly praiſed by the Neighbourhood of *Campania*. Since not only Companies, but whole Countries flock together in Order to ward off his Danger; and thoſe too drawn from Places that went beyond the Denomination of being in

is, "that no Perſon againſt the Will, or without the "Knowledge of the Maſter, ſhall conceal the Slave of "another Man, or put him in Fetters, or buy him wit-"tingly."

* *The* Portian *Law.*] This Law was enacted by *M. Portius Cato*; and the Explanation of it, will throw a good deal of Light on many Parts of our Author's Writings, and the *Roman* Conſtitution in general. Before this Law was made, the Manner of putting *Romans* to Death, was by ſtripping the Party quite naked, and thruſting his Head betwixt the two Prongs of an Inſtrument, called a *Furca*, and then beating him to Death with Rods. This Cuſtom was aboliſhed by the *Portian* Law, which enacted, that no Magiſtrate ſhould whip a *Roman* Citizen with Rods, or put him to Death. This was, in Appearance, expreſſing great Reſpect for the Dignity of a *Roman* Citizen, but the Penalties inflicted by that Law in Caſe of Conviction, were often ſo intolerable, that they choſe Death to avoid them. Theſe Penalties were as follow, *Bonorum multatio*, or *Omnium publicatio*, *i. e.* Confiſcation of Eſtate, and *Aqua & Igni interdictio*, *i. e.* A Prohibition of Water and Fire; which was underſtood to amount to Death.

† *Apulia* and *Campania.*] Thoſe Countries were famous for Farms, and the *Roman* Nobility and Gentry had great Stocks of Slaves and Cattle which wintered there: The Number of Shepherds in *Apulia* was ſo great, that it even ſometimes tempted Ambition to create public Diſturbances. *Rabirius* probably was of *Campania*, and had an Eſtate near *Naples*. *Domum* Rabirianam *quam tu dimenſam et exædificatam animo habebas Fontejus emit.*

the Neighbourhood, or on the Limits of his Eſtate. For why ſhould I prepare a long Diſcourſe to what is contained in the Act of his Amercement,* as if he had proſtituted both his own Chaſtity, and that of others? But I am even apt to imagine, that *Labienus* has confin'd me to half an Hour, that I may not ſay much upon the Subject of Chaſtity. It is evident, therefore, with regard to thoſe Points which require all the Exactneſs of a Pleader, that you thought this Half-hour was too long; but as to that Part of the Impeachment that relates to the Death of *Saturninus*, and which requires and calls aloud, not for the Eloquence of an Orator, but the Interpoſition of a Conſul, you deſign'd that half an Hour ſhould be too ſhort and too confin'd.

FOR as to the Forms of proceeding againſt Treaſon, which you generally accuſe me with having aboliſhed; that Charge lies againſt me, and not againſt *Rabirius*. I wiſh to Heaven, my Countrymen, that I had been † the firſt and the

* *Act of his Amercement.*] No private Perſon, but a Magiſtrate, or ſuch as a Tribune, could ſue for an Amercement. The Method was this; the Magiſtrate ſummoned the Party to appear before the People at a certain Day; he then accuſed him three Times, he afterwards, *rogabat multam*; that is, petitioned the People to confiſcate a certain Part of his Effects, or his Eſtate.

† *The firſt and the only* Roman.] *Cicero* ſays this, becauſe both *Portius Cato* and *Gracchus* had done the ſame before him.

Le

the only *Roman* who had abolished it. I wish, that what he lays against me as a Charge, I could claim as a Glory peculiarly and solely my own. For what can I wish, what could I chuse more desirable, than to have it told, that in my Consulate, I banished an Executioner from the *Forum*, and removed a Gibbet out of the Field of *Mars*? But, my Countrymen, the Merit of that Action belongs, in the first Instance, to our Ancestors, who after they had expelled their Kings, would suffer no Marks of Regal Cruelty to remain in a free State; and in the next, to the Efforts of many brave *Romans*, who were willing that your Liberty should not be infested by the Severity of Punishments, but secured by the Gentleness of Laws.

THEREFORE, *Labienus*, on whose Side, betwixt you and me, does Patriotism lie? On yours, who wanted in a *Roman Assembly*, that the Executioner should put *Roman Citizens* in Chains: Who in the *Campus Martius*, upon a hollowed Spot,* in the Time of the general Elections, commanded a Gibbet to be erected for the Executions of *Roman* Citizens? Or, on my Side, who will not suffer an Assembly to be

* *Upon a hallowed Spot.*] None of the *Comitia* could be held without first consecrating the Place by *Auspices*, and other Rites; so that a Gibbet, Hangman, *&c.* would have polluted it.

be defiled by the polluting Preſence of an Executioner? Who gave Orders, that the *Roman Forum* ſhould be expiated from the Marks of that monſtrous Wickedneſs? Who contend for the Purity of our Aſſemblies, for the Sanctity of the Place of Election, that the Bodies of *Roman* Citizens ſhould be inviolated, and their Liberties uninfringed?

BUT what does this Patriot Tribune of the People, this Guardian, this Aſſertor of the Rights and Privileges of the People? The *Portian* Law has removed the Rods from the Bodies of all *Romans*, but he in pure Pity reſtores the Uſe of Scourges.* The *Portian* Law has taken the Liberty of *Romans* out of the Hands of the Lictors, but this Patriot *Labienus* has delivered it over to the Executioner. *Caius Gracchus* paſs'd a Law, that no *Roman* ſhould be capitally tried, but by your Commands: This Patriot forc'd a *Roman* Citizen not to be tried, but to be capitally condemned before the *Duumviri*,

* *Removed the Rods from the Bodies of the* Roman *People; but he in pure Pity reſtores the Uſe of Scourges.*] The Reader will obſerve, that the Original here is *Virgas* for Rods, and *Flagella* for Scourges. The *Virgæ* were made of the Beech-Tree, and made Uſe of by the Lictors, who waited upon the Magiſtrates; whereas the *Flagella* defin'd by *Servius*, *ſummæ arborum partes*, were made uſe of by the Executioners upon Slaves. The Lictors were *Roman* Citizens, and lived in *Rome*; where as the Preſence of the *Carnifex* was thought to be polluting, ſo he was not allowed to live in the City.

umviri, and that too without his being heard in his Defence. And ſhall you mention before me the *Portian* Law, the Name of *Caius Gracchus*, the Liberty of thoſe *Romans*, or the Example of any worthy Patriot? You who have attempted to violate the Liberties of your Country, not only by unprecedented Puniſhments, but by an unheard-of Barbarity of Expreſſion; you who have endeavoured to attack their Gentleneſs, and to alter their Diſcipline! Go LICTOR, AND BIND HIS HANDS;* theſe are the Words that pleaſe your gentle, your Patriot Ear; Words unknown to the generous Liberty of this State, even to *Romulus*, and to *Numa Pompilius*, and are no other than the barbarous Form of adjudging to the Gibbet uſed by *Tarquin*, that haughtieſt and moſt cruel of Kings: Yet theſe are Words which you, gentle *Labienus*, repeat with Rapture. COVER HIS EYES,† HANG

* *Go Lictor, bind his Hands.*] This was the Form of Words pronounced by the Judge, when a Perſon was condemned to Death. See *Livy*, *l.* 1. Where the *Decemvir* pronounces Sentence upon *Horatius*.

† *Cover his Eyes.*] See *Livy*, *l.* 1. *Lex horrendi carminis erat. Duumviri perduellionem judicent: Si a Duumviris provocarit, provocatione certato: Si vincent, caput obnubito, arbori infelici recte ſuſpendito: Verberato vel intra pomerium vel extra pomerium.* In *Engliſh*, the Law of this horrible Sentence was as follows: "Let the *Duumviri* judge of the "Treaſon, if they ſhall judge, let the Matter be debated: "If the Party ſhall be caſt, then let his Head be bound up, "let him be hung up to the fatal Tree, after having been "whipt either within or without the Walls."

HANG HIM UPON THE ACCURSED TREE: Theſe Words, my Countrymen, that are not only loſt in the Miſt of *Antiquity*, but diſſipated by the Rays of *Liberty*.

HAD this Proceeding been agreeable to the Conſtitution, had it been in the leaſt conſiſtent either with Law or Equity, would *Caius Gracchus* have aboliſhed it? Can we ſuppoſe, that the Death of your Uncle was more heavy to you, than that of the Brother of *Caius Gracchus* was to him? Was you more afflicted with the Death of an Uncle, you never ſaw, than he with that of a Brother, with whom he lived in the deareſt Affection? Would you have revenged the Death of a Man, ſuch as your Uncle was, more keenly than *C. Gracchus* would have that of his Brother, had he been actuated by your Principles? Or was the Memory of that Uncle of yours, whoever he was, as dear to the *Romans* as the Memory of *Tib. Gracchus*? Do you out-do *Caius Gracchus* in Affection, in Courage, in Wiſdom, in Intereſt, in Authority, or in Eloquence? Qualities, which tho' he had poſſeſſed in a ſmall Degree, yet compar'd with yours, they would have been eminent. But as in Reality *Caius Gracchus* was the firſt Man of his Age in all thoſe Qualities, at what a Diſtance of Space, muſt you imagine, you follow him? But *Gracchus* would have died

ten

ten thouſand bitter Deaths, rather than have ſuffered an Executioner to have been preſent at any Aſſembly of his: For an Executioner is a Perſon whom our Cenſorian Laws have baniſhed not only from our *Forum*, but from the Light, from the Air, from the Walls, of this City; yet this Man will dare to give himſelf out as a Patriot, and repreſents me as an Enemy to your Intereſts; while at the ſame Time he is raking together all the cruel Precedents he can find for Whippings and Scourgings, not within your Memory, or that of your Fathers, but from the Rubbiſh of your Annals, and the Regiſters of your Kings; and I, on the other Hand, have always employed all my Power, all my Intereſt, my Words and Actions, in oppoſing and preventing ſuch barbarous Proceedings. Sure, *O Romans!* you would never chuſe a Lot which Slaves themſelves could not bear, without the Hope of Liberty annexed to it.

WRETCHED is the Infamy of public Trials; wretched the Amercement of Property; and wretched is Exile; yet ſtill thro' all thoſe Gradations of Miſery, ſome Marks of Liberty are diſcernable: Nay, when Death is the Puniſhment, we ſtill die in Poſſeſſion of Liberty. But never may my Countrymen feel; nay, may they never think of, hear, or ſee an Executioner,

tioner, the muffling up of the Eyes, nor the Infamy of a Gibbet. For theſe are Things that ought not to be propoſed, feared, or even mentioned among *Roman* Citizens, or Freemen, much leſs to be ſuffered by them. Shall the Generoſity of the Maſter, by one manumitting Blow,* free our Slaves from the Dread of all Puniſhments; and ſhall neither our Actions, our Years, nor our Dignity, deliver us from the Whip, from the Wheel, nor from the Dread of the Gibbet itſelf?

THEREFORE, *Titus Labienus*, I confeſs, nay, I avow it, that by my Advice, by my Reſolution, and my Authority, you was defeated in that cruel malicious Proſecution, in which you did not ſhew the Tribune, but the Tyrant. A Proſecution in which, though you neglected all the Precedents of our Forefathers, all the Laws, all the Authority of the Senate, all the Ceremonies and Rites preſcribed by the publick Conſtitution of Auſpices, yet the ſhort Time to which I am confined, will not ſuffer me to inſiſt upon thoſe Circumſtances: Theſe ſhall be Conſiderations when we are more at leiſure; at preſent, I will ſpeak to the Charge as

* *One manumitting Blow.*] One Method of freeing Slaves among the *Romans*, was by the Prætor or the Lictor laying a *Virga* of a Rod upon the Head of the Slave, and ſaying, *Hunc homimem liberum eſſe, aio*; and then the Maſter ſays, *Abito quo voles, nihil te moror.*

as to *Saturninus*, and the Death of your illuſtrious Uncle.

You charge *Rabiriüs* with having killed *L. Saturninus*; and *C. Rabirius*, in that full and moſt eloquent Defence which *Q. Hortenſius* made for him,* has already by many Evidences ſhewn, that this Charge is falſe; But were I now at Liberty to begin his Defence, I would take upon me the whole Load of that Charge; I would confeſs, I would acknowledge the Fact. I wiſh to the Gods, that in this Pleading I were left at large to avow, that *L. Saturninus*, the Enemy of the People of *Rome*, was killed by the Hand of *C. Rabirius*.

[*A Noiſe.*]

That Noiſe † has no Effect upon me, but to give me more Spirits; ſince it proves there are ſome

* *Which* Q. Hortenſius *made for him.*] *Hortenſius* had pleaded for *Rabirius* before the *Duumviri*.

† *That Noiſe.*] From this Circumſtance we may perceive, that the Point upon which this Trial came, was a very deciſive one, and a very intereſting one to the *Roman* People. They began to ſuſpect, that the boaſted Power, which *Cicero* here extols ſo much, of the Senate's entruſting the Conſuls with the Care of the State, was little better than uſurped, and might be abuſed ſo as to deſtroy their Liberty. They had felt the Conſequences of it very ſeverely ſeveral Times, and were reſolved upon this Occaſion to put it to Trial. *Cicero*'s declaring here, that *Saturninus* was the Enemy of the *Roman* People, was therefore a little premature, and the *Romans* of the inferior Claſſes, were ſo ſhock'd at it, that they could not help expreſſing their Reſentment very audibly. *Cicero*, however,

ſome miſled Citizens, but not many. Believe me, that the *Roman* People who are here, and ſilently attending, would never have raiſed me to the Conſulate, had they imagined that I was one to be moved by your Roaring. How the Noiſe ſinks!—Peace, Peace,—your bellowing only ſhews what Fools, and how few ye are.

COULD I do it, I ſay, conſiſtently with Truth; nay, were I now at Liberty to do it, I would with Pleaſure admit, that *C. Rabirius* killed *L. Saturninus*; and I would glory in the Greatneſs of the Action; but as I am debarred of that, yet I will confeſs a Circumſtance, which though it does not contribute ſo much to his Glory, yet equally anſwers the Purpoſe of your Impeachment; I do acknowledge, that *C. Rabirius* took up Arms to kill *L. Saturninus*. How, *Labienus!* Do you expect that I am to make any more weighty Confeſſions, or do you imagine that any greater Charge than this can be brought againſt him? Sure you don't imagine there is any Difference betwixt the Man who kills another with his own Hand, and him, who, by taking Arms, occaſions the Death of another. If it was unlawful

however, artfully eludes the Diſquiſition of what appears to have been the main Queſtion in this Trial, *viz.* whether the Senate or Conſuls had a Power of declaring any Perſon an Enemy to the *Roman* People, and loſes it in a Cloud of perſonal Invectives and Praiſes.

lawful to kill *Saturninus*, it was wicked to take up Arms againſt him. If you admit the Lawfulneſs of taking up Arms againſt him, you muſt admit at the ſame Time the Lawfulneſs of killing him.

* * * * * * * * * * * *

[*A ſmall Chaſm here.*]

A Decree of the Senate was made, requiring the Conſuls *C. Marius* and *L. Valerius*, to call in ſuch of the Tribunes of the People, and Prætors, as they ſhould think proper, and to take Care that the Empire and Majeſty of the *Roman* People might be preſerved. They call in to their Aſſiſtance all the Tribunes of the People, excepting *Saturninus*, and all the Prætors, excepting *Glaucia*. They command all who wiſhed well to their Country to take Arms and to follow them. All obey. The Conſul *Caius Marius* diſtributes Arms to the People of *Rome* out of the public Magazines and Arſenals. And here, without minding any Thing beſides, give me leave, *Labienus*, to put a ſhort Queſtion to you. When *Saturninus*, together with *Glaucia*, *C. Saufeius*, and that *Gracchus*, who was drawn from a Goal * where he lay in

* Gracchus *who was drawn from a Gaol.*] This was a Fellow who pretended to be the great *Gracchus*, and was ſuborned by *Saturninus* for that Purpoſe. See the Words of *Valerius Maximus*, *Lib.* 9. *c.* 7. *Equitium qui ſe* T. Gracchi *filium ſimulabat, tribunatumque adverſus leges cum* L. Satur-

Irons, with your Uncle *Q. Labienus*, (ſince you will have it ſo) by Arms poſſeſſed the Capitol, when the Conſuls, *C. Marius* and *L. Valerius Flaccus*, and then the whole *Senate*, that very *Senate* which you uſed to extol, (you who threw an invidious Imputation upon the preſent Senate, that you may more eaſily detract from their Authority) when the Equeſtrian Order, Immortal Gods, what a Body of *Roman* Knights, could our Forefathers and that Age produce! An Order that then ſupported the greateſt Share of this Government, and the whole Dignity of the Courts of Juſtice, when every *Roman* of every Order, who thought that their own Preſervation depended on that of their Country, when all theſe had taken up Arms, what do you imagine *Caius Rabirius* ought to have done?

I ſay,

L. Saturninus *petebat a* C. Mario *ſextum conſulatum gerente in publicam cuſtodiam ductum, populus clauſtris carceris convulſis, raptum humeris ſuis, per ſummam animorum alacritatem portavit.* "The People having broken open the Bars "of the Priſon, ſnatch'd up *C. Equitius* upon their Shoul-"ders, and carried him off with the greateſt Extaſy of Joy. "It was he who pretended to be the Son of *Tiberius Grac-*"*chus*, and ſtood for the Tribuneſhip againſt all Law with "*C. Saturninus*; but was committed to a public Priſon in "the ſixth Conſulſhip of *C. Marius.*"

Nay, ſo dear was the Name of *Tiberius Gracchus* to the People of *Rome*, that they actually raiſed this Impoſtor to the Tribuneſhip. He was driven along with *Saturninus* into the Capitol, but as we learn from *Appian*, was not killed there.

I ſay, *Labienus*, I will leave it to yourſelf to anſwer this Queſtion. When by a Decree of the Senate the Conſuls *had called to Arms*; when *Marcus Æmilius*, the firſt Man of that Body, ſtood in Arms upon the Place of Aſſembly; and as he could ſcarcely walk, thought that tho' his Lameneſs was no Diſadvantage as to his purſuing, yet that it would at leaſt hinder his flying; in ſhort, when *Q. Scævola* ſpent with Age, diſeaſed, lame, all his Limbs uſeleſs and crippled, leaning on a Spear, diſcovered at once the Fimneſs of his Soul, and the Weakneſs of his Body; when *L. Metellus*, *Ser. Galba*, *C. Serranus*, *P. Rutilius*, *C. Fimbria*, *Q. Catulus*, and all the Conſulars of that Time, had taken Arms for the Public Safety; when all the Prætors, all our Nobility, the whole Flower of our Youth, *C.* and *L. Domitius*, *L. Craſſus*, *Q. Mucius*, *C. Claudius*, *M. Druſus*; when all the *Octavii*, the *Metelli*, the *Julii*, the *Caſſii*, the *Catones*, the *Pompeii*; when *L. Philippus*, and *L. Scipio*; when *M. Lepidus*, and *D. Brutus*; when *Servilius* himſelf, the General, in whoſe Army you, *Labienus*, ſerved; when this *Q. Catulus*, who was then but a very Youth; when this *C. Curio*, all flock'd together; in ſhort, when all our Men of Eminence were along with the Conſuls; pray what did it become *C. Rabirius* to do? Whether was he to chuſe

to ſhut himſelf up, and ſkulk in private, and conceal his Cowardice in Darkneſs, and behind Walls, or march into the Capitol, and aſſociate himſelf with your Uncle and others, whom the Infamy of their Lives drove to ſeek Shelter in Death; or to join with *Marius*, *Scaurus*, *Catulus*, *Metellus*, *Scævola*; in ſhort, with all our Patriots, not only in the Means of Preſervation, but in the Danger of the Attempt.

LET me aſk of you, *Labienus*, how you would have behaved upon ſuch an Occaſion, and in ſuch a Juncture? While a Motive of Cowardice was driving you into Flight and Sculking, and the profligate Fury of *Lucius Saturninus* inviting you into the Capitol, the Conſuls calling to Arms for the Preſervation and Liberties of their Country; then, whoſe Authority, whoſe Voice, whoſe Party, whoſe Command would you have choſen to follow? My Uncle, he ſays, was with *Saturninus*: With whom was your Father? How do you ſay? Your Friends, the *Roman* Knights, the whole Prefecture, your Country, your Neighbourhood, the whole Territory of *Ancona*, which did they follow, the Fury of the Tribune, or the Authority of the Conſul?

ONE Thing I will take the Liberty to aſſert; That no Man ever confeſſed of himſelf what you.

you now own publicly with Regard to your Uncle. No Man was ever found ſo profligate; ſo reprobate; ſo abandon'd to not only all Honeſty, but all Pretenſions to Honeſty, as to confeſs that he was in the Capitol along with *Saturninus*. But your Uncle was; admitting he was, and that too without being forced into it by any deſperate Situation of his private Affairs, or any domeſtic Misfortunes; yet the Friendſhip for *L. Saturninus* might have betrayed him to prefer that to the Good of his Country. Was this a Reaſon to *C. Rabirius* for proving a Rebel to the State, for his not appearing in thoſe armed Bands of Patriots, and for his not obeying the Voice and Command of the Conſuls? Yet we ſee that by the Nature of Things he muſt have followed one of thoſe three Courſes, either been along with *Saturninus*, or with the Patriots, or he muſt have kept out of the Way. The latter had been like the vileſt Death: To have gone along with *Saturninus*, Wickedneſs and Madneſs; Virtue, Honeſty and Modeſty obliged him to be along with the Conſuls. Will you then charge it as a Crime that *C. Rabirius* was of a Party, which it would have been the Height of Madneſs to have oppoſed, and of Infamy to have abandon'd.

BUT *C. Decianus*,* whom you often mention, was condemned for presuming in an Assembly to complain of the Death of *Saturninus*, while, with the highest Satisfaction to every worthy *Roman*, he was accusing *P. Furius*, a Man branded with every Mark of Infamy. And *Sextus Titius* was condemned for having a Picture of *L. Saturninus* in his House. Upon that Trial the *Roman* Knights determined, that the Citizen was disaffected to his Country, and unworthy of living within the Walls of *Rome*, who should either commemorate the Death of a seditious and rebellious *Roman*, by having his Image, or move his thoughtless Countrymen to Pity, or express his own Readiness to imitate the Example of his Rebellion. I am therefore at a Loss, *Labienus*, to know from whence you had that Image † you now possess: For upon the Condemnation of *Sextus Titius*, no Man was found bold enough to keep one of them. But if you had ever heard of his Condemnation; or if you had been old enough to remember it; surely you never would have brought before the *Rostra*, and into the Assembly, that Image which

* *C. Decianus.*] We have this Story in *Valerius*, *l.* 8. and likewise that of *Titius*.

† *That Image.*] It should appear that the Prosecutors of *Rabirius* had brought the Image of *Saturninus*, who was at this Time a Favourite with the People, into the *Forum*, and placed it upon the *Rostra*, to spirit them up against *Rabirius*.

which brought Ruin and Exile upon *Sextus Titius* for having it in his Houſe; nor would you ever have approached with your Cargo to that Rock, on which you had ſeen the Family of *Sextus Titius* ruin'd, and the Fortunes of *C. Decianus* wreck'd. But all thoſe Overſights were owing to your Ignorance: For you have undertaken a Cauſe that is older than you can remember; a Cauſe that was dead before you was born; a Cauſe which, tho' you yourſelf now arraign it, had you been old enough, you would have embraced.

ARE you not ſenſible, in the firſt Place, of the Number and Quality of thoſe dead Perſons and Patriots, whom you are now impeaching of the moſt conſummate Wickedneſs? In the next Place, how many of the Living do you now put into the immediate Danger of their Lives by this very Charge. For if *C. Rabirius* has incurred a capital Penalty, by taking up Arms againſt *L. Saturninus*; his unexperienc'd Years at that Time will plead for ſome Mitigation of his Puniſhment. But what Defence can we urge in Favour of *Q. Catulus*, the Father of this *Catulus*, a Man diſtinguiſhed by conſummate Wiſdom, uncommon Courage, and matchleſs Humanity: or the grave, the able, the prudent *Marcus Scaurus*; the two *Mucii*, *L. Craſſus*, and *M. Antonius*, who then lay encamped without the City; Men of by

far the ſoundeſt Heads, and greateſt Capacities of any in this State; together with others of equal Dignity, the Guardians and Governors of their Country, but now all of them in their Graves. What Apology can we make for thoſe very worthy Men and excellent Citizens the *Roman* Knights, who then join'd with the Senate in Defence of their Country? Or for the Commiſſioners of the Treaſury, and the *Romans* of all other Orders who then took Arms for the Liberty of *Rome*?

BUT why do I ſpeak of thoſe who took up Arms by Command of the Conſuls? What will become of the Reputation of the Conſuls themſelves? Shall we condemn *L. Flaccus* of this monſtrous Wickedneſs and Parricide now that he is dead; a Man, who, when alive, was ever indefatigable in his Duty as a Patriot; in his Offices as a Magiſtrate; in his Prieſthood, and the ſacred Ceremonies over which he preſided? Shall we join even the Name of *C. Marius* to this poſthumous Infamy? I ſay, ſhall we after his Death condemn of unnatural Guilt and Wickedneſs *C. Marius*, whom we may truly call the Father of his Country, and the Parent of your Liberty and this Republic?

FOR if *T. Rabienus* has thought it proper to fix a Gibbet in the *Campus Martius*, for *C. Rabirius*, becauſe he took up Arms, what Puniſhment does not the Man deſerve who call'd him

to

to Arms? And if, as you have very often affirmed, any Promiſes of Indemnity were made to *Saturninus*, they were made, not by *Rabirius*, but by *Marius*, and if they were broken, that Breach is to be imputed to him. What Promiſe could paſs? Who could make any Promiſe but by Reſolution of the Senate? Are you ſo much a Stranger to this City? Are you ſo very ignorant of our Government and Conſtitution as to be ignorant of that? Surely you ſeem to have been but a Sojourner in ſome foreign State, and not to bear a Magiſtracy in your own.

How, he may ſay, can theſe Allegations affect *Caius Marius* who is now dead and inſenſible? It is thus you reaſon? And do you imagine, that *C. Marius* would have lived amidſt ſo great Toils and ſuch Danger, had his Hopes and Sentiments, with Regard to himſelf and his Glory, reached no farther than the Bounds of this Life? Are we to ſuppoſe, that when he routed thoſe innumerable Bodies of Enemies in *Italy*, and had freed his Country beſieged by Foreigners, he imagined that all his Actions were to die with him? No, my Countrymen; nor is there a Man amongſt us all, who labours with Courage and Glory in the Dangers of his Country, who is not invited by the Hope and Advantage of Poſterity. For this, amongſt many others, the Souls of wor-

thy

thy Patriots to me appear to be Divine and Eternal; especially as the Regard of all the best and wisest amongst Mankind is so fixed upon Futurity, that the latest Posterity seems to be the sole Object of their View.

FOR this Reason, I call to witness the Spirits of *C. Marius*, and those other Heroes, the wisest and the bravest of our Countrymen, who seem to have moved out of this mortal Life to immortal Worship and Holiness, that I think myself as much obliged to fight for their Fame, their Glory, and their Memory, as for the Gods and Temples of my Country; and were I to take Arms to vindicate their Renown, I would act as strenuously for them, as they acted for the Preservation of the State: For, my Countrymen, the Bounds for *Life*, prescribed by Nature, are but *narrow*, but those she has prescribed for *Glory* are *immense*.

THEREFORE, when we praise our *Ancestors*, the Reflection on our Mortality becomes the less melancholy. But, *Labienus*, if you have no Regard to those whom we cannot see, is no Regard due to those who are present to our Eyes? I will venture to say, there was not a Youth in *Rome*, on the Day which you impeach, who did not then take Arms, who did not then follow the Consuls: Yet all these, whom you may make some Computation of

by

by their Ages, are, in the Perſon of *C. Rabirius*, capitally impeached by you for what they did that Day. But you ſay, that *Saturninus* was killed by *Rabirius*. I wiſh he had: I ſhould not then be begging off a Puniſhment, but claiming a Reward. For if *Scæva*, the Slave of *Q. Croto*, was rewarded with Freedom for killing *Saturninus*; what Reward equal to this Service could be adjudged to a *Roman* Knight? And if *C. Marius*, for ordering the Pipes that ſupplied the Temples and Seats of JOVE, *the beſt and greateſt*, to be cut off * *

* * * * * * * * * * * *

[*A Chaſm to the End.*]

ARGU-

ARGUMENT
OF THE
ORATION
FOR
King *DEJOTARUS.*

DEJOTARUS was Tetrarch of almoſt all Gallogræcia: *Upon the Cloſe of the Civil Wars he was accuſed by his Grandſon* Caſtor, *of a Deſign to murder* Cæſar, *who was much piqu'd at him for joining* Pompey *againſt himſelf.* Cicero *ſpoke this Oration in his Defence before* Cæſar, *in* Cæſar's *own Houſe, in which he inveighs againſt the Worthleſſneſs both of the Proſecutor and the Witneſſes whom he had ſuborned; and with ſo much Succeſs that* Dejotarus *was not puniſhed by* Cæſar.

This Oration was delivered in the Year of Rome 708, *and of* Cicero's *Age* 62.

M. T.

M. T. CICERO's

ORATION

FOR

KING *DEJOTARUS,*

Before CÆSAR.

THO' in all Cauſes of Conſequence, Sir, I uſe, in the Beginning of my Pleading, to ſet out with more * Concern than either my Practice at the Bar, or my Years ſeem to require; yet upon this Occaſion, I am ſo ſtrongly, ſo variouſly

* *More Concern.*] There is a Paſſage very parallel to this in our Author's Oration for *Cluentius*, which is the beſt Commentary that can be given upon this Place, *Semper equidem magno cum metu incipio dicere. Quotieſcunque dico,*

riouſly affected, that my Duty does not inſpire me with greater Zeal to vindicate *Dejotarus*, than the Concern I am under damps my Abilities for doing it.

IN the firſt Place, I plead for the Life and Fortunes of a King.* This is a Trial, which tho'

dico, toties mihi videor in judicium venire, non judicii ſolum, ſed etiam virtutis atque officii mei: Ne aut id profiteri videar quod non poſſum implere, quod eſt impudentiæ: Aut id non efficere, quod poſſim, quod eſt aut perfidiæ aut negligentiæ.

* *The Life and Fortunes of a King.*] This was a very uncommon Caſe; and as *Cicero* ſays himſelf, *unprecedented:* But the Reader will here obſerve to what a fine Climax *Cicero* riſes in Compliment to *Cæſar*. *Dejotarus* was a ſovereign Prince within his own Country, with only a *political* Dependence upon *Cæſar:* Yet, ſays our Author, tho' he is a ſovereign Prince, it is juſt he ſhould plead for his Life, when any Thing is in Queſtion that might have affected *Cæſar*. The Expreſſion here in the Original is remarkable, *Pro capite fortuniſque Regis*. There ſeems to be ſome ſort of Doubt, whether if *Dejotarus* had been found guilty, *Cæſar* would have ordered to have put him to Death. As to the Penalty inflicted in a capital Cauſe, when the Puniſhment was not Death, we have a curious Paſſage in *Paulus de Capite Minutis*. *Capitis diminutionis tria genera ſunt, maxima, media, minima; tria enim ſunt quæ habemus, libertatem, civitatem, & familiam; igitur cum omnia hæc amittimus, hoc eſt libertatem civitatem & familiam, maximam eſſe capitis diminutionem. Cum vero amitimus civitatem, libertatem retinemus; Mediam eſſe capitis diminutionem: Cum & libertas & civitas retinetur, familia tantum mutatur, minimam tantum capitis diminutionem conſtat.*

" The *Diminutio capitis*, (or Diminution of the Head,) " are of three Kinds, the greateſt, the middle, and the " leaſt; for we are in Poſſeſſion of three Things, Li- " berty,

tho' juſtifiable, eſpecially when you are perſonally in Danger, yet it muſt be own'd to be at leaſt unuſual, nay, unprecedented, for a King to be tried for his Life: A King too, whom, in Conjunction with all the Senate, I uſed to celebrate for his inviolable Attachment to this State;* but now I am obliged to vindicate from the Charge of a moſt deteſtable Nature. Add to this, that I am ſhock'd by the Inhumanity of one Accuſer, and the Worthleſſneſs of the other.† *Caſtor*, that cruel, or rather wicked

" berty, our Enfranchiſement, and Family. When we
" loſe all theſe, we ſuffer the greateſt *Diminutio capitis*;
" but when we loſe our Enfranchiſement, and retain our
" Liberty, we then ſuffer the middle *Diminutio capitis*;
" when we preſerve both our Liberty and Enfranchiſement,
" and only change our Family or Place of Reſidence, this
" is the ſmalleſt *Diminutio capitis.*

* *I uſed to celebrate for his inviolable Attachment to this State.*] See *De Haruſp. Reſp. Atque hunc tamen* Dejotarum *ſæpe a Senatu regali nomine dignum exiſtimatum, clariſſimorum Imperatorum teſtimoniis ornatum, tu etiam regem appellari cum* Brogitaro *jubes.*

† *The Worthleſſneſs of the other.*] Character went a great way in criminal Proſecutions amongſt the *Romans.* We have from *Ulpian* the particular Circumſtances which diſqualified a Perſon from giving his Evidence.

Is qui judicio publico damnatus eſt, jus accuſandi non habet, niſi liberorum vel patronorum ſuorum mortem vel rem ſuam exequatur. Sed & calumnia notatis jus accuſandi ademptum eſt. Item his qui cum beſtiis depugnandi cauſa in Arena intromiſſi ſunt, quive artem ludicram vel lenocinium faciunt.

" A Perſon who has been condemned upon a public
" Trial is not entitled to act as an Accuſer, except
" in proſecuting the Death of his own Children, or his
" Patrons,

ed and unnatural Grandſon, has brought his Grandfather into Danger of his Life, has attack'd, with the Wildneſs of Youth, the Man whoſe old Age he was bound to protect and defend; made Inhumanity and Wickedneſs his firſt Introduction into Life,* and by corrupt Practices prevail'd with the Slave of his Grandfather to accuſe his Maſter, having for this Purpoſe taken him from the Service of the Deputies.†

BUT when I ſee this Fugitive Miſcreant accuſing his Lord, his abſent Lord, a Prince the moſt

" Patrons, or his own Property. They who were branded
" for Calumny, ſee *p.* 42. were likewiſe deprived of the
" Right of accuſing; as were thoſe who were brought on
" the Stage to fight with wild Beaſts, or who exercited
" any ludicrous or bawdy Profeſſion."

* *Firſt Introduction into Life.*] The Original here is, *Commendationemque ineuntis ætatis ab impietate & ſcelere duxerit.* There is a fine Piece of Railery here. Young Gentlemen among the *Romans* found the ſureſt Way of riſing into Reputation with the Public, and to Preferment in the State, was by accuſing eminent Offenders; and *Cicero* ſays, that this young Fellow is ſo fond to riſe, that he accuſes even his Grandfather. There is a beautiful Soliloquy of *Theſeus* in *Seneca*, ſomewhat reſembling that Paſſage, ſpeaking of *Hippolitus* whom he ſuſpected of defiling his Bed;

—Silvarum incola
Ille efferatus, Caſtus, intactus, rudis
Mihi te reſervas? A meo primum Tereo
Scelere tanto placuit ordine virum.

† *The Service of the Deputies.*] The Original here has a very contemptuous Inſinuation, *a Legatorum pedibus*, inſinuating that he was no better than their Footman.

moſt faithful Ally of this State; when I obſerved his Looks; when I heard his Expreſſions, I was not more deeply affected with the melancholy State of Royalty, than concerned for the Fate of my Fellow Citizens. For tho', agreeable to our Conſtitution,* a Slave cannot be made an Evidence againſt his Maſter, even by the Rack, which may oblige him againſt his Will to diſcover the Truth; yet here a Slave, in a Caſe where his Evidence could not be taken from the Rack, is at Liberty to enter an Impeachment at the Bar.

THERE is another Circumſtance, Sir, that ſometimes gives me Uneaſineſs, but a thorough Knowledge of your Character compoſes my Fears; for of itſelf, it is highly unjuſt, but your Wiſdom renders it perfectly equitable. It is a hard Matter, conſidering it by itſelf, when the Judge before whom you plead upon an Overt-act of which you are accuſed, is the very Perſon whoſe Life this Overt-act was to affect. For there is ſcarcely any Man, who is both

* *For tho' agreeable to our Conſtitution.*] I ſhall only upon this quote a Paſſage in the Oration for *Milo*.

Sed tamen, majores noſtri in dominum de ſervo quæri noluerunt; non quia non poſſet verum inveniri, ſed videbatur indignum, & Dominis morte ipſa triſtius. What follows here is ſo beautiful and artful a Compliment to *Cæſar*, that the Reader cannot fail to find it out, without my pointing out its particular Excellencies.

Judge and Party, who will not be more favourable to himſelf than the Accuſed. But the matchleſs Greatneſs of your Soul, *Caius Cæſar*, makes me more eaſy upon that Head; and I am not ſo much afraid of what your Judgment will be of *Dejotarus*, as I am ſenſible of the Judgment you wiſh the World to form of yourſelf.

I AM likewiſe affected* by the Strangeneſs of this very Place, by pleading a Cauſe of more Importance than ever was canvaſs'd, within the Walls of a Dwelling-Houſe, deprived of that Aſſembly, and thoſe Numbers from which Eloquence derives her Spirit. It is your Eyes, your Look, your Countenance alone that I court; it is to you alone I make my Addreſs; and to you alone my whole Diſcourſe is directed: Circumſtances which may weigh exceedingly in my Endeavours to obtain Juſtice; tho' they have but an inconſiderable Effect upon the Emotions of the Mind, and contribute but little towards the Energy and Force of Eloquence.

FOR were I, Sir, to plead this Cauſe in the *Forum*,

* *I am likewiſe affected.*] This is a Circumſtance which I dare ſay *Cicero* threw in, not from any Artifice of Eloquence, but from what he felt within himſelf. There is no Speaker in the World who makes a Figure by his Eloquence in public Aſſemblies, who does not derive a great deal of that Spirit to which his Succeſs is owing, from the Conſciouſneſs of the great Numbers who hear him; but how finely does *Cicero* turn even this Circumſtance to a Compliment upon *Cæſar!*

Forum, in your Hearing, and at your Tribunal, with what Spirit would the aſſembled Crowds of *Romans* inſpire me? For where is the *Roman* who would not be on the Side of a King, whoſe whole Life he remembers to have been ſpent in the Field for the Service of *Rome*. I would there throw my Eyes upon the Court, I would look all around the *Forum*, and then invoke Heaven itſelf as an Evidence. Thus, after I had commemorated the Favours of the immortal Gods, of the People of *Rome*, and of the Senate, to King *Dejotarus*, it would have been impoſſible that I ſhould have failed of ſufficient Subject for my Pleading.

BUT as all theſe Advantages are contracted by theſe Walls, and as the principal Inconveniency which weakens the Force of my Pleading upon this Occaſion, ariſes from the Narrowneſs of this Place, it is your Part, Sir, you who have undertaken the Defence of many,* to apply the Damp, which now lies upon my Spirits, to your own Caſe; that thereby your Equity, as well as your Attention, may kindly leſſen the Confuſion I am under. But before I

* *Undertaken the Defence of many.*] We are told by *Suetonius*, in his Life of *Julius Cæſar*, that he was looked upon as one of the beſt Pleaders in *Rome*. The Reaſon of his applying to this, is beſt accounted for in *Cicero*'s own Words.

Cauſas, Cæſar, *egi multas*, *& quidem tecum*, *dum te in foro tenuit ratio honorum tuorum*, pro Ligario.

ſpeak to the Accuſation itſelf, let me touch a little upon the Views of the Accuſers; who, tho' they find themſelves inconſiderable, both as to their Capacity, their Practice and Experience in Buſineſs, yet appear upon this Occaſion not without ſome Hopes and Preparation.

WELL did they know that you was incenſed at King *Dejotarus*,* and they reflected, that your Reſentment had ſubjected him to Diſadvantages and Loſſes; they knew that you were angry with him, and favourable to themſelves;† and ſince you were to be at once Judge and Party,

* *Well did they know that you was incenſed at* Dejotarus.] *Cicero*, in his *Philippics*, ſpeaks in very ſtrong Terms of *Cæſar*'s Hatred of *Dejotarus*, which had proceeded ſo far as to mulct him of a Part of his Dominions, that had been granted him by the Senate; but *Cicero* manages this Particular with great Tenderneſs and Addreſs for Fear of diſobliging *Cæſar*. However, we find him reflecting very ſeverely upon *Cæſar* on this very Account, in other Parts of his Works.

Cæſarem eodem tempore & hoſtem & hoſpitem vidit, quid hoc triſtius? is cum ei Troginorum Tetrarchiam eripuiſſet, & aſſect ſuo Pergameno neſcio cui dediſſet, eidemque detraxiſſet Armeniam a Senatu datam; cumque ab eo magnificentiſſimo hoſpitio exceptus eſſet, ſpoliatum reliquit & hoſpitem & regem.

De Div.

† *Favourable to themſelves.*] I cannot take upon me to ſay, that I have tranſlated this Paſſage right. In the Original, it is *Tum ſibi amicum cognoverat.* The *ſibi* may relate here, either to the Proſecutors, or to *Cæſar* himſelf. *Cicero*'s Way of Reaſoning ſeems to determine it to the latter; but I think ſuch a Senſe falls ſhort of that Delicacy which is conſpicuous throughout the whole Oration.

Party, they thought it natural that a forg'd Imputation ſhould make a quick and an eaſy Impreſſion upon a Mind already exaſperated with Prepoſſeſſion. Therefore, Sir, let your Honour, Integrity and Clemency free us, in the firſt Place, from this Fear, otherwiſe we ſhall apprehend that Reſentment has ſtill ſome Hold upon your Mind. Let me conjure you by that Right Hand,* which you ſtretched out to King *Dejotarus* in token of mutual Hoſpitality;

* *Let me conjure you by that Right Hand.*] I don't know what the Reader's Opinion may be, but in mine, this is one of the nobleſt and happieſt Turns that ever was given to any Circumſtance. The Right Hand amongſt all Nations, even among thoſe lately diſcovered, ſeems to have been the Symbol of Security in Promiſes. Hoſpitality was juſtly looked upon as one of the moſt religious Rites among the *Romans*, who were none of the leaſt ſuperſtitious People, whatever *Cæſar* might be. But this Paſſage will appear in a much ſtronger Light to the Reader, when he is informed, that the *Romans* looked upon a Promiſe, or a Right confirmed by ſtretching out the Right Hand, as a ſolemn Sacrament: For this we have the poſitive Inſtitution of that excellent Politician and Lawgiver *Numa*. Take it in the Words of *Livy*.

Fidei ſolemne inſtituit ad id ſacrariam Flamines bigis curru arcuato vehi juſſit, manuque ad digitos uſque involuta rem divinam facere, ſignificantes fidem tutandum, ſedemque ejus etiam in dextris Sacratam eſſe.

Now tho' *Cæſar* laughed at the outward Form of their Religion as much as any Man; yet no wiſe Man would contradict the common received Uſages to fly in the Face of an eſtabliſhed Cuſtom, even putting Matters of Religion upon that Footing. The Inſinuation therefore which *Cicero* throws in here upon theſe, is not only a very ſtinging Reflection upon *Cæſar* for his paſt Treatment of *Dejotarus*, but likewiſe a very ſtrong Argument why he ſhould carry his Reſentment no farther.

that Right Hand, not more ſucceſsful in the Terrors of War, than faithful in the Engagements of Honour: You was pleaſed to enter his Roof; and to renew your ancient Terms of Hoſpitality with him; his Houſhold Gods welcom'd you as a Gueſt; and the genial Altars of *Dejotarus* beheld you a reconciled Friend.

SUCH, Great Sir, is your Readineſs to pardon, that you ſeldom require a ſecond Petition to extend it. Never was you reconcil'd to an Enemy who perceiv'd any Seeds of Rancour remaining in your Boſom; yet who is unacquainted with your Grounds of Reproach againſt *Dejotarus?* Never did you accuſe him as an Enemy, but as a Friend who had not well diſcharged his Duty; by having a ſtronger Biaſs to *Pompey*'s Friendſhip than to yours. Yet you ſaid you would have pardon'd this very King, provided while he was ſending his Troops, nay, his Son over to *Pompey*, he would plead old Age as an Excuſe for not going over himſelf. Thus while you acquitted him of the moſt weighty and material Charge,* you only left an Imputation upon the Delicacy of his Friendſhip.

FOR

* *Thus while you acquitted him of the moſt weighty and material Charge.*] Original, *cum maximis cum rebus liberares.* This is a very odd way of Reaſoning in our Author, if he means that *Cæſar* acquitted him of the moſt heavy

For this Reaſon you did not puniſh him; nay you delivered him from all Apprehenſion. You acknowledged him a *Gueſt*; you left him a *King*. For he did not perſevere from any Diſlike of *you*, but fell into a general Error. This Prince, whoſe Authority is ſuch, as the Senate had acknowledged it by repeated Decrees in the moſt honourable Terms: he who from his

heavy Charge that could be urged againſt him for ſiding with *Pompey*, as all Commentators ſeem to agree. *Cicero* gives us the very ſtrongeſt Reaſon in this Place, that can be urged againſt this Opinion. *Cæſar* told *Dejotarus*, You are a very old Man, *Pompey* is not to expect that you are to take the Field; therefore, I beg you will not go in Perſon, tho', if you pleaſe you may ſend your Troops; nay, your Son at their Head. *Dejotarus* refuſed this generous Offer, and was ſo inveterate an Enemy to *Cæſar*, that he would not urge even old Age as an Excuſe for his not taking the Field, tho' he might have done it without the leaſt Imputation upon his Courage. This, in Effect, is *Cicero*'s own Account of the Matter, and appears to have been repreſented ſo by *Cæſar* himſelf, to vindicate the Violence of his Reſentment againſt *Dejotarus*. Therefore the Word *rebus* here, can with no Conſiſtency of Meaning be applied to the Allegations againſt *Dejotarus* in this Trial, but to the Particulars of his Conduct during the War. In this Light, *Cicero*'s Reaſoning is very conſiſtent; but you, yourſelf, ſays he, by being ſo kind as to exempt him from the moſt difficult Part of his Behaviour, and moſt material Part of it, by indulging him in the Liberty of ſending even his Troops and Son into the Field, provided he would not expoſe his own Perſon, left *Dejotarus* blameable only for appearing in Perſon againſt ſo kind and ſo generous a Friend, by preferring his Friendſhip for *Pompey* to that for *Cæſar*. The Commentators have been reduced to conſult a great many Writings, in order to reconcile this Paſſage, as they have underſtood it, to common Senſe.

Youth had ever borne that awful, that venerable Diſtinction, while at a Diſtance and a Stranger, ſtumbled upon the very ſame Miſtake with us, who were born, and had ſpent our Lives in the Boſom of this Republic.

UPON hearing that by Conſent of the Senate a War was begun, that the Defence of the State was put into the Hands of the new Commanders, by the Conſuls, Prætors and Tribunes of the People, he was ſurprized; and as he bore the moſt inviolable Attachment to the People of *Rome*, he began to fear for their Safety, which he perceived was connected with his own. Yet he thought it moſt prudent for himſelf to remain quiet amidſt the general Conſternation. But he was quite confounded with the News that the Conſuls had quitted *Italy*: That all the Conſulars, for ſo he was informed, the whole Senate, and all *Italy* had taken the Field. Such were the Rumours that prevailed all over the *Eaſt*, without being deſtroyed by true Accounts. He heard nothing of the Terms which you had offered; nothing of your Zeal for Peace and Tranquility; or of the Conſpiracy formed by a Set of Men againſt your Dignity; and yet under all theſe trying Circumſtances, he remained undetermined till he received Letters and an Embaſſy from *Pompey*.

PAR.

PARDON, pardon, Great Sir, if *Dejotarus* did yield to the Authority of that Man whoſe Party we all embrac'd; the Man upon whom the Gods and Men had laviſh'd may Diſtinctions,* but you yourſelf, the moſt and the greateſt; for though your Actions have ſhaded the Glories of all other Generals with Oblivion, yet we have not loſt the Memory of *Pompey*. How great his Renown, how extenſive his Power, how univerſal his military Glory; how he was honoured by the People, by the Senate of *Rome*, and by yourſelf, is known to all the World. His Glories as much ſurpaſſed thoſe before him, as yours ſurpaſs thoſe of all Mankind. Therefore we counted with Aſtoniſhment the Wars, the Victories, the Triumphs of *Pompey*, but we find it impoſſible to count yours.

KING *Dejotarus* then came, in this calamitous fatal Diſpute, to the Man whom he had before aſſiſted in lawful Wars with foreign Enemies, the Man with whom he was connected, not

* *The Man upon whom Gods and Men had laviſhed many Diſtinctions.*] It has been ingeniouſly obſerved of *Homer*, that all the great Qualities and Courage, with which he endues the Heroes of his *Iliad*, ſerve only to give the greater Luſtre and *Relief* to the Character of *Achilles*. *Cicero* ſeems to have underſtood this Conduct extremely well. And tho' the Praiſes he here beſtows upon *Pompey* carry along with them an Air of noble Freedom, yet they are managed with ſo much Addreſs, that they muſt have given great Pleaſure to *Cæſar*.

not only by the Ties of Hoſpitality, but of the ſtricteſt Friendſhip; and he came either by *Invitation* as a *Friend*, by *Command* as an *Ally*, or by *Summons* as one who had learned to obey the *Senate*;* in ſhort, he came to him as he was, flying, not while he was advancing; that is, to ſhare not in his *Victory*, but, in his *Calamity*. Therefore, after the Battle of *Pharſalia*, he abondon'd *Pompey*;† he was unwilling to enter into a Purſuit of endleſs Hopes: He imagin'd he had gone far enough in diſcharging

* *By Summons, as one who had learned to obey the Senate.*] The Original, *Ut is qui ſenatui parere didicit, fuit.* I ſhall not trouble the Reader with the idle Conjectures of Commentators on this Paſſage, I will only obſerve that *Cicero* might have formed a ſtrong Argument from it in Favour of *Dejotarus*, had it not been too tender a Point to be inſiſted upon.

† *Therefore, after the Battle of* Pharſalia, *he abandoned* Pompey.] The Reader will think this a very odd Excuſe for *Dejotarus*. He ſtuck by *Cæſar*'s Enemy till that Enemy was ruin'd. But there are two or three Things here to be conſider'd. In the firſt Place, it was neither proper, nor would have been prudent for *Cicero* to have ſaid all he could in Favour of *Dejotarus*. But in the next Place, there is here a very broad Intimation that *Cæſar* was very much obliged to *Dejotarus* for leaving *Pompey*'s Party after the Battle of *Pharſalia*; becauſe, after that Battle it made a great many Stands, and put *Cæſar* in greater Danger than ever he had been in before. Therefore, no-body knows what the Conſequences would have been, had *Dejotarus* joined him: Laſtly, Our Author here intimates, that it was merely from a Nicety and Point of Honour, that *Dejotarus* had join'd *Pompey*, who was his old General and Friend; and that as ſoon as he had ſatisfied this, which he thought an indiſpenſable Punctilio, he fairly dropp'd him.

charging the Obligations of Friendſhip, if he was under any, or in following a Miſtake, if he was deluded through Ignorance; he retired Home, and was as ſerviceable as he could be to you, while you was carrying on the *Alexandrian* War.

He maintain'd within his own Roof, and at his own Expence, the Army of the illuſtrious *Cn. Domitius.** He ſent Money to *Epheſus*, for that moſt faithful and beſt approv'd of all your Friends.† Again, and upon a third Occaſion of Victory, he ſold his Eſtate to advance you Money for the Service of the War: He expoſed his Perſon in the Field; he ſerv'd under you in the Battle with *Pharnaces*, ‡ and look'd upon your Enemy as his own. All which,

* *Cn. Domitius.*] He was made Lieutenant over *Aſia* and the neighbouring Provinces by *Cæſar* after the Battle of *Pharſalia*.

† *That moſt faithful and beſt approved of all Friends.*] All the Commentators have made a ridiculous Pother about this Paſſage. Some ſay, that the Perſon here hinted at is *Q. Furius Calenus*, others *Sextus Cæſar*; but I ſee no Reaſon, eſpecially as *Epheſus* lay in *Aſia*, why it ſhould not be meant of *Cn. Domitius*, and the natural Conſtruction of *Cicero*'s Words point *him* out.

‡ *In the Battle with* Pharnaces.] The Author of the Hiſtory of the *Alexandrian* War, gives us a very different Repreſentation of this Matter.

Rex Dejotarus *ad Domitium Calvinum, cui* Cæſar Aſiam *finitimaſque provincias adminiſtrandas tranſdiderat, venit oratum, ne* Armeniam *minorem, regnum ſuum, neve* Cappadociam *regnum* Ariobarzanis *poſſideri vexarique pateretur a* Pharnace: *Quo malo niſi libarercter, imperata ſibi facere, pecuniamque promiſſam* Cæſari *non poſſe perſolvere.*

which, Sir, you took in ſo good Part, that you dignified him with the illuſtrious Name and Title of King.

THIS Man then, who was not only pardon'd, but diſtinguiſhed by you with the higheſt Honours, is charged with an Intention to kill you in his own Houſe. An Intention, of which, unleſs you imagine that he is utterly deprived of Reaſon, you cannot ſuſpect him. Not to mention the deteſtable Guilt of killing his Gueſt within the View of his own Houſhold Gods;* the incredible Barbarity of extinguiſhing the brighteſt Luminary, that any Age or Nation ever produced; that amazing Audacity of not dreading the Conqueror of the World; the Inhumanity and Ingratitude of his proving a Tyrant to the Man, by whom he himſelf was diſtinguiſhed with the Name and Title of KING; I ſay, not to mention theſe Conſiderations, what Madneſs muſt it have been to have provoked all Princes, many of them his Neighbours, all free People, all our Allies, all the Provinces; in ſhort, to have turned the Swords of the whole World againſt himſelf alone? In what

* *His own Houſhold Gods.*] *Horace* has much ſuch another Thought.

Illum & parentis crediderim ſui
Fregiſſe cervicem, & penetralia
Sparſiſſe nocturno cruore
Hoſpitis.

what Manner muſt he have been diſtracted with his Kingdom, his Family, his Wife, and his deareſt Son, not upon the perpetrating only, but upon the very deſigning ſuch a Piece of Wickedneſs.

IT may perhaps be ſuggeſted, that his Want of Foreſight and Prudence blinded him to all thoſe Conſiderations. Is there any Man more foreſeeing, more cautious, more prudent than he is? But upon this Charge, I am of Opinion, that it is not the Capacity or Underſtanding of *Dejotarus* that is to be urged in his Defence; but the Honour and Sanctity of his Life. You, Sir, are acquainted with the Probity, with the Morals, and with the Integrity of the Man. Nay give me Leave to aſk, whether there is a Perſon who has ever heard of the *Roman* Name, yet is a Stranger to the Integrity, the Gravity, the Honour, and the Virtue of *Dejotarus*? If you admit this Charge therefore, you are to ſuppoſe that one of the beſt of Men, and one, who is far from being a Fool, has deſign'd a Thing, which no Man can be ſuppoſed guilty of through Inadvertency, becauſe of the immediate Deſtruction attending it; and no Man through Wickedneſs, who was not at the ſame Inſtant a Madman.

BUT how void is this Charge not only of all Pro-

Probability, but of the ſmalleſt Preſumption to ſupport it? When, ſays the Proſecutor, you was come to the Caſtle of *Luccejus*, and had taken up your Lodging with your Royal Landlord, there was a certain Place in which were diſpoſed the Preſents that were deſigned to be made you by the King. Hither he intended to introduce you, after you came out of the Bath,* before you went to Supper; for in that very Place the Murderers were poſted with Arms to diſpatch you. Behold the Crime; behold the Cauſe why a Fugitive accuſes his Prince, and a Slave his Maſter. For my own Part, Sir, by Heavens, I imagined, as ſoon as this Matter was laid before me, that *Phidippus*,† the Phyſician and Slave of the King, who was ſent along with the Deputies, had been tamper'd with by that young Man. I was ſtruck with this Suſpicion. He will no doubt ſuborn a Phyſician

Out of the Bath.] The Antients uſed to bathe before they went to Supper; it was particularly refreſhing to *Cæſar* upon this Occaſion juſt when he was come off a Journey.

† Our Author is now proceeding to ſhew, that the Charge was deſtitute of Probability; for if *Dejotarus*, ſays he, had employ'd this *Phidippus*, it would have been to have poiſon'd *Cæſar*, as *Phidippus* is a Phyſician; and indeed I thought that *Caſtor* had a Mind to have made a poiſoning Buſineſs of it, when I heard that *Phidippus* was to be an Evidence: Beſides, *Cæſar* might have been more ſafely taken off twenty Ways by Poiſon, than once by Aſſaſſination.

ſician for an Evidence, in order to cook up ſome poiſoning Plot, which though very diſtant from Truth, yet was pretty much the Faſhion in Charges of this Nature.

WHAT does this Phyſician ſay? Not a Syllable with Regard to Poiſon. But it might have been privately given either in Drink or Victuals. Beſides, there was the greater Chance of Impunity, ſince, after it was done, it might have been denied. Had he murdered you openly, he would have pointed, not only the Hatred, but the Swords of the whole World againſt himſelf: Had he taken you off by Poiſon, it never could have been hid from the Providence of the hoſpitable JOVE, but it might have been concealed from the Knowledge of Mankind. The Deſign therefore that might have been concerted with the greateſt Secrecy, and executed with the greateſt Safety, he refuſed to entruſt to you, or a crafty, and as he thought a faithful Phyſician his Slave; ſhall he then be ſuppoſed to conceal from you nothing relating to the Arms, the Aſſaſſination, or the Treachery? But how finely does this Story hang together? Your uſual good Fortune, ſays he, ſaved you; for you refuſed to look into the Apartments at that Time.

WHAT happened next? Did *Dejotarus*, upon miſſing his Aim, inſtantly diſband his Myrmi-

Myrmidons?* Was there no other Place proper for an Ambuſh? But you had ſaid that after Supper was over, you would return to the ſame Place; and ſo you did. Was it ſo very difficult to keep thoſe armed Men for an Hour or two longer at their Poſts. After your Heart was laid open to the Indulgence of Company and ſocial Pleaſure at the Board, you came thither as you promiſed; and here you find *Dejotarus* to be the ſame to you, as King *Attalus*† was to *P. Africanus*; to whom the former, as we learn from Hiſtory, ſent very valuable Preſents out of *Aſia*, as far as *Numantia*; and *Africanus* received them in the public View of his whole Army. After *Dejotarus* in a generous and royal Manner had done this, you retired to your Bed-chamber.

I conjure you, Sir, to recollect the Memory of that Juncture, place that Day before your Eyes;

* *Inſtantly diſband his Myrmidons.*] There is a great deal of Humour here in the Original, though it is far from ſtriking. *Continuo dimiſit exercitum. Dimittere exercitum* appears to have been a burleſque Expreſſion, to ſignify paying off, or diſcharging any Set of Tools or Servants, that a Man deſigned ſhould ſerve a preſent Turn. Thus *Thraſo* in *Ter. Eun. A.* 4. *S.* 7. *Jam dimitto exercitum.* Our Author no doubt had this Paſſage in his Eye; and it might have a very good Effect in expoſing the ridiculous Contrivance of this Charge. When the Expreſſion is conſidered in this Light, I hope I ſhall be pardoned the Liberty I have taken in tranſlating it.

† *Attalus.*] We are told this Story of *Antiochus* by *Livy*, and other Writers.

Eyes; remember the Looks of the Company, all gazing upon and admiring you. Was there then any Symptom of Confuſion? Any Diſorder? Did not every Thing proceed with that Calmneſs, that Quiet which belongs to the Oeconomy of the moſt regular and beſt of Men? What Reaſon then can be ſuggeſted, why he was ſo keen to murder you before Supper, and yet declin'd it when it was over?

He put it off, ſays the Accuſer, till next Day, and then he propoſed to put his Deſign in Execution, when you came into the Fortreſs of *Lucceius*. I can't ſee any Reaſon for thus ſhifting the Scene. But this is made an Article of Impeachment. Says he, after Supper, when you ſaid that you had a Mind to take a Vomit;* they began to conduct you to the Bath; for there the Ambuſh was placed. But here your uſual good Fortune ſav'd you, for you choſe to go into your Bed-chamber. May Heavens confound thee, thou Renegade Traytor, for now you prove yourſelf not only a Raſcal and a Villain, but a Fool and an Ideot. Were thoſe he had plac'd in Ambuſh ſo many brazen Statues, which could not be conveyed from the Bath into the Bed-chamber? You have here the whole of this Plot; this is

* *To take a Vomit.*] It was very cuſtomary among the Antients to vomit after Supper; *Cæſar* particularly uſed to do this, and by that Evacuation they generally eat more than ordinary.

all he ſays; and tells you, *All this I knew of*. And what then? Was *Dejotarus* ſo infatuated as to diſmiſs the Man whom he had led into ſuch a Scene of Iniquity; to ſend him even to *Rome*, where he knew his Grandſon, the greateſt Enemy he has, and *Caius Cæſar*, againſt whom the Treaſon was intended, lived; eſpecially as he was the only Man who could at a Diſtance avenge himſelf * of his Treaſons? He likewiſe threw my Brothers, ſays he, into Fetters, becauſe they knew of the Plot; yet at the ſame Time, while he was confining thoſe who were at home, he was diſpatching you in full Freedom to *Rome*, though you knew the very ſame Things which you pretend they knew.

THE remaining Part of the Impeachment is of a double Nature. The one is, that the King was always upon the Watch while he was at Variance with you; the other, that he levied a great Army againſt you. I will, as upon the other Points, but juſt touch upon this Army. *Dejotarus* never raiſed an Army powerful enough to make War with the People of *Rome*;

* *Who could at a Diſtance avenge himſelf.*] The Commentators have crowded the Margins of our Author with their Altercations upon this Paſſage, and their different Readings, ſome referring it to *Phidippus*, and ſome to *Cæſar*. The Senſe appears equally good either Way. I have tranſlated it according to the Meaning of the famous Line, *An neſcis longas regibus eſſe manus.*

Rome; but it was ſufficient for protecting his Territories from Inroads and Depredations, and for aſſiſting *our* Generals. Formerly, indeed, he was able to keep up a large Body of Forces; but now he can ſcarcely find Means to maintain a very few. But he ſent ſomebody to *Cælius*; though at the ſame Time he threw thoſe whom he ſent into Fetters, becauſe they refuſed to go. I ſhall not here enquire into the Improbability of the King's having neither any Body to ſend; nor of their diſobeying him whom he did ſend; nor of his throwing into Fetters, and not rather putting to Death thoſe who diſobeyed his Orders in an Affair of ſuch Conſequence. But as he was ſending to *Cælius*, whether did this Step proceed from his Ignorance of his Party being baffled, or from his Opinion, that *Cælius* was a great Man. A Fellow, whom a Man, who is ſo well acquainted with the Characters of our Countrymen, as *Dejotarus* is, would deſpiſe equally, either becauſe he did know him, or becauſe he did not know him. He added another Charge, which was his not ſending the Flower of his Cavalry. I believe, Sir, thoſe he ſent were old Troops; nothing indeed to your Cavalry; but the beſt that he could ſend to the Field. He alledges that one of them was adjudg'd to be a Slave * I

* *A Slave.*] The *Romans* were very jealous of admitting

fancy not: I heard of no ſuch Thing. But ſuppoſing it had been ſo, I can't ſee how that ought to affect the King, as it was no Fault of his.

BUT he was no Friend to you. How! No doubt he hoped that your Retreat from *Alexandria* would be extremely difficult on Account of the Nature of the Country and the River: Yet at that very Time he was furniſhing you with Money; he was ſupporting your Army, and was in no Reſpect backward in aſſiſting the Perſon whom you made Governor of *Aſia*. Upon your Victory he not only received you as a Gueſt, but ſhared in your Danger, and was preſent in the Battle: The *African* War followed next: Many Reports were ſpread to your Prejudice; and ſuch as alarmed that hair-brain'd *Cælius*. In what Manner did *Dejotarus* then behave with Regard to you? Why, he choſe that his Effects ſhould be put up to Sale, and himſelf and Son ſtript, rather than not furniſh you with Money. But, ſays he, at that very Time, he was ſending to *Nicæas* and *Epheſus*, to pick up all the idle Stories about you, and have them quickly brought to him; and when he was told that *Domitius* was ſhipwreck'd, and

ting any into their Armies, eſpecially their Cavalry, who had not Liberty nor Property to defend. Therefore, whenever they were obliged, as they ſometimes were to enlift Slaves, they manumitted them.

and that you was ſhut up in a Fort, he applied to *Domitius* our *Latin* Sentence in *Greek*.

Let our Friends periſh, provided our Enemies periſh along with them.

THIS he never was capable of ſaying, even tho' he had been your moſt bitter Enemy; for he is Gentleneſs itſelf;* and this is a barbarous Saying. But how could a Man, who was a Friend to *Domitius*, be an Enemy to you? Give me Leave to aſk farther, why ſhould he be an Enemy to you, who having by the Laws of War a Right to put him to Death, had but lately inveſted himſelf and his Son with Royalty?

WHAT comes next! What Lengths does the Villain run! *Dejotarus*, ſays he, was ſo elevated with this News, that he got drunk and danced naked † at the Entertainment. What

* *For he is Gentleneſs itſelf.*] As to the Facts laid down in this Oration, we can ſay very little; but by what we underſtand from our Author himſelf, in other Parts of his Writings, this Charge had not been ſo deſtitute of Probability and Proof as he would here repreſent it. With Regard to the Characters, this one of *Dejotarus*, I am apt to believe, is very much miſrepreſented; for by all other Accounts he appears to have been a Monſter of Blood and Cruelty; for he put to Death all his own Children, and afterwards *Caſtor*'s own Father, which may very well account for *Caſtor*'s appearing in this Proſecution.

† *Danced naked.*] This was one of the greateſt Reproaches that could be upon any Man's Character amongſt the Ancients.

Gibbet can puniſh this Scoundrel as he deſerves? Did ever any Man ſee *Dejotarus* either dancing or Drunk? He poſſeſſes all the Virtues of a King, as I believe you, Sir, are ſenſible: But above all, a wonderful, an unparallel'd Frugality; a Character by which I know it is uncommon to recommend Kings. It is not ſaying a great deal of a King, when we ſay that he is *frugal*. Frugality is the Virtue of a private Man; Fortitude, Juſtice, Severity, Weight, Magnanimity, Generoſity, Beneficence, and Liberality, are the Virtues of a King. Every Body may put what Conſtruction they pleaſe upon it; but I look upon *Frugality*, by which I mean Modeſty and Temperance, to be amongſt the greateſt of Virtues. And it is a Virtue that in his earlieſt Life was proved and allowed to be his by all *Aſia*, by our Magiſtrates and Deputies, and by all the *Roman* Knights who had any Dealings there.

It was, indeed, by a long Series of Services to this State, that he roſe to the Royal Dignity: But all the Time he could ſpare from the Wars of *Rome* was ſpent in conforming the Cuſtoms, the Friendſhips, the Intereſts and the Views of his Country to ours; ſo that he was looked upon not only as a noble Tetrarch, but as an excellent Father and Maſter, and a moſt induſtrious

ſtrious Improver of Land and Country Gentlemen.* Shall a Perſon then who in his Youth, before he aroſe to ſo much Glory, acted up in every Reſpect to the Strictneſs of Severity and Gravity, be ſuppoſed to dance, now that he has attained to this Character and theſe Years?

You ought, *Caſtor*, to imitate the Manners and Regularity of your Grandfather, rather than injure the Reputation of that excellent and illuſtrious Perſon by the Tongue of a Fugitive. Suppoſing you had had a Dancer for your Grandfather, inſtead of a Perſon of ſuch exemplary Modeſty and Decency; yet ſuch an Imputation was very inconſiſtent with his Years. Even the Exerciſes of which he was ſo completely Maſter in his Youth, not Dancing, but a Dexterity in handling Arms, and Addreſs in

* *A moſt Induſtrious Improver of Land and Country Gentlemen.*] This Paſſage may perhaps be ſneer'd at by ſome of our *fine* Gentlemen, who cannot conceive how this Qualification can enter into the Character of a King. But the *Anticlimax* is eaſily removed by the following Paſſage from *Pliny*, l. 18. c. 3. which I ſhall not tranſlate, becauſe I intend it only for the Uſe of thoſe who find fault, and to tranſlate it might throw ſome Imputation upon their Learning.

De cultura Agri præcipere principale fuit etiam apud exteros. Si quidem & reges fecere, Hiero, Philometor, Attalus, Archelaus, *& Ducet* Xenophon, *&* Pœnus *etiam* Mago, *cui quidem tantum honorum ſenatus noſter habuit* Carthagine *capta, ut cum regulis* Africæ *bibliothecas donaret unius ejus duo triginta volumina cenſeret in* Latinam *linguam tranſferenda, cum jam* M. Cato *Præcepta* condidiſſet.

managing a Horſe, have all left him now that he is ſo far advanced in Years; ſo that after he had got, by the Help of ſeveral People, on Horſeback, we were ſurprized that he could keep his Seat. As to this young Gentleman who ſerved *under* me in *Cilicia*, and *with* me in *Greece*, when he uſed to gallop about our Army with the Band of choice Cavalry, which his Father * had ſent to *Pompey*'s Aſſiſtance, what a Crowd did he uſe to gather round him; what Swaggering, what Oſtentation, how eminently zealous, how remarkably keen was he for that Party!

BUT upon loſing our Army at the Battle of *Pharſalia*, when I, who was ever an Advocate for Peace, adviſed that we ſhould not lay down, but throw away our Arms, I could not bring him to be of my Opinion; both becauſe he had a Paſſion for the War itſelf and becauſe he thought that he ought to pleaſe his Father. Happy is that Family which has not only an Impunity but a Privilege for accuſing: Unhappy is *Dejotarus* who is accuſed by the Perſon who ſerv'd with him in the ſame Army, and has not only you for his Judge, but his own Family for his Proſecutors. You cannot,

Caſtor,

* *His Father.*] This is not quite generous in our Author; he ſeems to have gone out of his Way here, that he might throw in a very invidious Inſinuation upon the young Gentleman's Father, who was attached to *Pompey*.

Caſtor taſte your own Proſperity with Pleaſure, unleſs you behold the Miſery of your Relations.

SUPPOSING there had been Differences, 'twas wrong there ſhould; for King *Dejotarus* drew your Family, when it was low and obſcure, from Darkneſs into Light. Was it ever mention'd *who your Father was*, before it was talked of, *whoſe Son-in-law he was?* But tho' you ungratefully and unnaturally have diſowned the Obligations of Alliance, yet might you in your Enmity have borne yourſelves like Men, and not have proſecuted him upon a forg'd Accuſation; not have thirſted for his Blood; nor have tried him for his Life. But I will allow you to have indulged even this Pitch of Rancour and Malice; but muſt you therefore violate every Law of Safety, of Society, and even of Nature? To tamper with a Slave; to corrupt him with Hopes and Promiſes; to carry him from home; to put Arms into his Hand againſt his Maſter; or in other Words, to declare an infamous War, not againſt a ſingle Friend, but againſt every Man who keeps a Number of Slaves. For ſhould ſuch mean Practices meet with Impunity, nay, with Approbation from ſo great a Tribunal as this, no Walls, no Laws, no Rights can inſure our Safety: Becauſe when our own domeſtic Property ſhall preſume with Impunity to ſtrike out, and fight againſt ourſelves,

the

the Slave acts as the Maſter, and the Maſter may ſink into the Slave.

DEGENERATE and mean! *Cn. Domitius*, whom in our Youth we beheld Conſul, Cenſor, and High Prieſt, having as Tribune of the Commons, impeached *Marcus Scaurus*, the firſt Man in the Senate before the People, when a Slave of *Scaurus* came privately to his Houſe offering to inform againſt his Maſter, he ordered the Fellow to be ſeized and carried to *Scaurus*. See the Difference; tho' it is wrong to compare *Caſtor* with *Domitius*, yet the one ſent home the Slave to his own Foe, and you have debauched one from your Grandfather; he would not give Ear to the uninfluenced Teſtimony of a Slave, but *you* have bribed one; he refuſed a Slave as a corroborative Evidence againſt his Maſter, but you have employed one as a principal Accuſer againſt his.

BUT was he only once corrupted by you? Did he not, after you had brought him into Court, after you had tamper'd with him, fly back to the Deputies? Did he not come to this ſame *Cn. Domitius*? Did he not in the Hearing of that illuſtrious *Servius Sulpicius*, who was then accidentally at Supper with *Domitius*, and this excellent Youth *T. Torquatus*, confeſs that you had corrupted him, and put him upon this Perjury by your Promiſes?

WHAT

WHAT a Scene of impudent, barbarous, boundleſs Inhumanity is here? Are you come to *Rome*, to corrupt, to pollute the Laws and Lives of her Citizens with your domeſtic Brutality? But how wiſely is the Charge put together? *Blæſamius*,* whoſe Worth you, Sir, are not unacquainted with, and in whoſe Name he defamed you, uſed to write to the King, that you was become the Object of public Hatred; that you was looked upon as a Tyrant; that the People were highly diſguſted at your Statue being erected amongſt thoſe of the Kings; that they had left off clapping you. Don't you perceive, Sir, that all this is but a Collection of all the low Tattle of our diſcontented Citizens? Did *Blæſamius* write that *Cæſar* was a Tyrant? Had he ſeen ſo many trunkleſs Heads of *Romans*? Had he ſeen them harraſs'd, whipt, and put to Death by *Cæſar*'s Orders? Had he ſeen ſo many Houſes demoliſhed and razed to the Ground, and the *Forum* filled with armed Bands? All theſe we always had beheld to be the Conſequences of civil Victory; but as you, Sir, was the Victor we beheld them not.

YOU I ſay, O *Cæſar*, are the only Conque-

ror

* *Blæſamius.*] He appears to have been the Reſident of *Dejotarus* at *Rome*. Our Author's Reaſoning here is very inconcluſive, as appears from what followed ſoon after, when *Cæſar* was actually killed.

ror upon whoſe Victory no Man ever fell but with Arms in his Hand, and whom we, born in the Vigour of *Roman* Liberty, which we ſtill enjoy, are ſo far from experiencing to be a Tyrant, that we have felt you the moſt humane of Conquerors. Can ſuch a Hero as this ſeem a Tyrant to *Blæſamius*, who is the Subject of a King? Why ſhould any one complain of a ſingle Statue, eſpecially where he ſees ſo many? Is it likely that we ſhould be offended at his Statue, while we are pleaſed with his Trophies? For if the Place where it ſtands is obnoxious to Jealouſy, there is no Place where a Statue appears with greater Luſtre than in the *Roſtrum*. But what ſhall I ſay with Regard to the Applauſes? Theſe never were courted by you, and ſometimes, ſuch was the Aſtoniſhment of Mankind,* that they were loſt in Wonder, and perhaps omitted them, becauſe they imagined that nothing which was common could be a Compliment to you.

I BELIEVE I have forgot nothing, but I have reſerv'd ſomewhat for the Cloſe of my Plead-

* *Such was the Aſtoniſhment of Mankind.*] If *Cæſar* was pleaſed with this Reflection, it is a very ſtrong Proof, that there is no Courage ſo firm, no Mind ſo great, nor Judgment ſo excellent, as to be Proof againſt the moſt fulſome Flattery, if artfully applied. Our Author ſeems to be apprehenſive of going too far; for in the next Paragraph we find him recovering himſelf by a noble Addreſs in very free Language.

Pleading; which is to perſuade you to be fully reconciled to *Dejotarus*. For I am not now afraid that you retain your Reſentment againſt *him*; I am only afraid that you may ſuſpect that *he* entertains ſome Reſentment againſt you. But believe me, Sir, it is far otherwiſe. He reflects upon what he poſſeſſes from your Bounty, and not upon what he has loſt by your Diſpleaſure. He does not imagine that he was amerc'd by you. But when he reflects upon the many Gratuities * which you muſt beſtow upon many People, he without a Grudge, as he was of the whole Party, reſigns what you have taken from him.

THE great *Antiochus*, King of *Aſia*, after he was conquered by *Scipio*, was ordered to make *Taurus* the Limit of his Kingdom, and to quit all that *Aſia* which is now a Province of ours; and if he uſed to ſay, *That it was kindly done in the* Romans *to eaſe him of too extended a Charge of Empire, that he might enjoy a more narrow Dominion.* *Dejotarus* has much more Reaſon

* *Many Gratuities*] We learn from *Dio*, that *Cæſar*, after he came into Power, had ſo many People, that he was forced to *ſplit* Employments and Offices; for Example, he made 14 Prætors and 40 Quæſtors, and the Senate to conſiſt of 900; with a vaſt Number of other additional Officers in other Poſts. He had likewiſe another Way of obliging his Friends, and that was by *quartering* them upon the Poſſeſſors of wealthy Provinces, *&c.* as in this Caſe of *Dejotarus*.

Reaſon to comfort himſelf: For the one was puniſhed for his Madneſs, the other for his Miſtake. You, Sir, beſtowed every Thing upon *Dejotarus*, when you allowed him the Title of Royalty: While he retains and preſerves this Title, he never thinks that any Favour of the *Roman* People, that any Declaration of the Senate with Regard to himſelf has ever been leſſened. He retains the ſame Magnanimity, the ſame Firmneſs of Soul; nor will he ever ſink under his Enemies, nor under Fortune herſelf.

His paſt Merits, he is conſcious, are great; and his Courage and Virtue are Treaſures of which no Power can deprive him. For what Fortune, what Accident, what Injury ſhall ever be able to eraſe the Decrees of all our Generals relating to *Dejotarus*? He has been diſtinguiſhed by all, who, after he was old enough to bear Arms, have been at the Head of our Wars in *Aſia*, *Cappadocia*, *Pontus*, *Cilicia* and *Syria*. As to the many honourable Declarations of the Senate in his Favour, which have been conſigned to the public Regiſters and Monuments of the *Roman* People; what Years ſhall ever obliterate, or what Oblivion ſhall ever aboliſh them? What ſhall I ſay of his Courage, what of his Magnanimity, his Gravity, his Firmneſs; Qualities, which all the Wiſe and the Learned allow

allow * to be the *greateſt*, and ſome the *only* Bleſſings of Life; and which enable Virtue not only to enjoy Comfort, but Happineſs. While, by making theſe Reflections the conſtant Subjects of his Meditation, far from bearing any Reſentment againſt you, (which would prove him both ungrateful and frantic) he acknowledges all the Tranquillity and Repoſe of his peaceful old Age to be the Gift of your Clemency.

As theſe were formerly his Sentiments, ſo I make no doubt that he received ſtill greater Spirit and more Aſſurance of Protection from your Letter which you ſent to him by the Hands of this ſame *Blæſamius*, at *Tarraco*, and a Copy of which I read; for you there command him *to hope the beſt, and be of good Courage*; Expreſſions which I know you never uſe to no Purpoſe. For I remember you wrote to me † in the ſame Terms; and I found it was not without a Meaning that in your Letters you ordered me *to hope the beſt*.

I OWN that I am the more ſolicitous with regard to *Dejotarus* as the Concerns of the Public

* *The Learned allow.*] The *Peripatetic* Philoſophers maintained, Virtue to be the *greateſt* Good; the *Stoics*, that it was the *only* Good.

† *You wrote to me.*] *Cæſar* was ſo extremely kind to *Cicero* upon his Succeſs againſt *Pompey*, that it muſt not be

Public have conciliated a Friendſhip betwixt us; our mutual Inclinations have joined us by the Ties of reciprocal Hoſpitality,* Intercourſe begot a Familiarity, which was improved into the ſincereſt Intimacy, by the important Services he did to me and my Army.† But while I am anxious about him, I am in Pain for many Perſons of the higheſt Dignity, who, after you had once pardoned them, never entertaincd the leaſt Doubt with Regard to the Sincerity of your Reconciliation, nor would they ſuffer an eternal Anxiety to hang upon their Spirits, ſince it never can happen that any Man whom you have but once pardoned ſhould have any Cauſe of future Fear.

I ought

be diſſembled, that our Author would have made a more conſpicuous Figure in Hiſtory, had he either never admitted, or been more grateful for his Kindneſs. But whatever *Cicero* was in Philoſophy, it is certain he was no Stoic in Politics.

* *Reciprocal Hoſpitality.*] There is a very fine Gradation of Duties here. *Firſt*, The common Intereſts of the State begot an *Amicitia*, a general Word to ſignify the political Relation betwixt two People of the ſame Party and Intereſt, but without any particular Connexion. See his *Orat. de Prov. Conſularibus.* Their ſimilar Inclinations begot a *Hoſpitium*, which is a ſtronger *Tie*, as it includes the other; the Intercourſe occaſioned by this *Hoſpitium*, begot a *Familiaritas*; but the great perſonal real Services done him by *Dejotarus*, combined all thoſe Relations into a *Neceſſitudo*, which comprehends them all, and Gratitude beſides.

† *My Army.*] This was the Army our Author was at the Head of, after he obtained the Province of *Cilicia*.

I ought not, Sir, as is common in Caſes of ſo great Danger, to endeavour, by my Language, to move your Compaſſion; that would be needleſs, ſince it is always ready without Solicitation to offer itſelf to the Relief of the Suppliant and the Miſerable. Place before you two Kings,† and behold in *Idea* what you cannot ſee in *Reality*; then, believe me, you will grant to Pity what you have denied to Reſentment. Many are the Monuments of your Mercy, but the chief are the Safeties of thoſe whom you have preſerved: If this with Regard to private Men is glorious, how is the Glory enhanced when extended to Kings? The Title of Royalty * has always been deem'd

† *Two Kings.*] That is, *Dejotarus* and his Son.

* *The Title of Royalty.*] I own that I have a very different Opinion of our Author's Candor, from what I have ſaid of his Abilities and Art as an Orator. I am not afraid of any Reflexions on this Account; my Opinion is but too well warranted from numberleſs Paſſages of his Writings. It is the greateſt Meanneſs (but it is a Meanneſs that Men of Learning have fallen into more generally than any Set of Men in the World) to make great Abilities in an Art throw a Veil over, and atone for, nay, recommend all other Defects either perſonal or political. The Reaſon is plain; they have pored ſo long upon the Beauties of his Art, that they are dazzled, they are intoxicated with them, and *all is Beauty*. The Flattery contained in this Paſſage was, at the Time this ORATION was pronounced, highly dangerous; ſince 'tis well known that *Cæſar* was then affecting the *Royalty* of *Rome*. But beſides this Conſideration, it muſt be owned, that *Cicero* has thrown it in ſuch a Manner, as muſt have been highly

venerable in this State; but when belonging to our Allies and Friends, it is ſacred.

THIS was a Title which theſe Princes were afraid they ſhould loſe upon your Succeſs; but I hope they will be able to tranſmit it preſerv'd and confirm'd by you, even to their lateſt Poſterity. The King's Deputies * *Hieras*, *Blæſamius* and *Antigonus*, here pledge their own Per-

highly delightful to *Cæſar*; as will appear to the Reader who will conſider the following Paſſage from *Suetonius* in his Life of *Cæſar*.

Quæſtor Juliam Amitam, uxoremque Corneliam *laudavit è more pro Roſtris. Sed in Amitæ quidem laudatione, de ejus & patris ſui utraque origine ſic refert; amitæ meæ Juliæ maternum genus a regibus ortum, paternum cum Diis immortalibus conjunctum eſt. Nam ab Anco Marco ſunt Marcii reges; quo nomine fuit Mater: a Venere Julii, cujus gentis familia eſt noſtra. Eſt ergo in genere &* SANCTITAS REGUM, *qui plurimum inter homines pollent, & ceremonia Deorum quorum in poteſtate ſunt Reges.*

" While he was Quæſtor, according to Cuſtom, he ce-
" lebrated *Julia* his Aunt, and his Wife *Cornelia* from the
" *Roſtra*. 'Tis remarkable, that in praiſing his Aunt,
" he thus ſpeaks of her's and her Father's Family. My
" Aunt *Julia* was deſcended by the Mother's Side from
" Kings, and by the Father's from the Immortal Gods: For
" the *Marcii* are of Royal Extraction from King *Ancus*
" *Marcus*; and her Mother was of their Name. The
" *Julii* came from *Venus*; and that is our Family. There-
" fore there is in our Pedigree both the Sanctity of Kings,
" which have the greateſt Power amongſt Mortals, and is
" entitled to the Regard that is due to the Gods, who
" controul even Kings themſelves."

* *The King's Deputies.*] This was a very high Strain of Loyalty towards ſo worthleſs a Fellow as *Dejotarus* appears to have been; for theſe three Perſons offered to ſtand the Rack to prove their Prince's Innocence.

Perſons for the Safety of their reſpective Kings: Theſe are Men whom both you and I have long known, together with *Dorylaus*, who was lately joint Embaſſador with *Hieras* to you: Men of the moſt inviolable Affection to their Kings, and I hope approved by you.

PUT the Queſtion to *Blæſamius*, whether he ever wrote any Thing to the King againſt your Dignity. *Hieras* alone indeed undertakes to refute the whole Accuſation; he offers to ſtand Trial upon this Charge for his King;* he appeals to that all-retaining Memory you poſſeſs; he ſays, that he never was abſent from your Side all the Time you were in the Tetrarchy of *Dejotarus*; he ſays, that he met with you at your firſt Entrance into his Territories, and never left you till your Departure; that he was with you when you came out of the Bath; when you looked over thoſe Preſents after Supper; after you had repoſed yourſelf in the Bed-chamber, and that he paid the ſame aſſiduous Attendance upon your Perſon all the next Day.

HE is therefore willing, if any of the Allegations have really been deſign'd, that you ſhould lay it to his Charge. So that, *Cæſar*, I

 hope,

* *To ſtand Trial upon this Charge for his King.*] *Orig. Se reum ſupponit*, Metaph. taken from thoſe Gladiators who fought inſtead of others; hence *Glidiatores ſuppoſititii*.

hope, you will conſider, that your Sentence this Day will entail upon Kings the moſt terrible Woes with Infamy, or unattainted Honour with Safety: The firſt of thoſe *their* Barbarity* leads them to wiſh for; the latter your Clemency directs *you* to preſerve.

* *Their Barbarity.*] Meaning *Caſtor*, and the other Adverſaries of *Dejotarus*

The End of the ORATION *for* Dejotarus.

ARGU

ARGUMENT
OF THE
ORATION
FOR
L. MURENA.

THIS Oration is inimitable, by the great Dilicacy with which our Author treats the perſonal Characters of two very great, and very popular Perſons, who happened to appear againſt his Client in the Impeachment which gave Riſe to this Pleading; Sulpicius *and* Cato. *Thoſe two Gentlemen, with* Cn. Poſthumius, *a Youth, impeached* Licinius Murena *of corrupt Practices upon three Heads; Firſt, As to his Character, which they pretended was very debauched in* Aſia, *where he had ſerved with great Reputation as Lieutenant under* Lucullus *againſt* Mithridates. Secondly, *As to his Quality; he being but a Knight and a Soldier,* Sulpicius, *a Patrician and a Lawyer, and had been firſt returned, both when he ſtood for the Quæſtorſhip and Prætorſhip; yet* Murena *carried the Conſulſhip from him, when he ſtood for it.* Laſtly, *He was impeached upon the* Calphurnian *Law, and for a Breach of a* Senatus Conſultum, *as having encouraged People to meet him when he came to Town as a Candidate, and to attend him; and as he had*

allotted Seats to the ſeveral Tribes at the Shews of Gladiators; and had invited the People promiſcuouſly to Entertainments. The whole of this Proſecution, as manaeged by our Author, appears to have been founded upon a Pique of Sulpicius, who was ruffled by his Diſappointment in his Pretenſions to the Conſulſhip. On the one Side, appeared Men famous for the Sanctity of their Manners; on the other, Men diſtinguiſhed by their Abilities at the Bar: For beſides Cicero, Craſſus and Hortenſius appeared for the Accuſed, and had pleaded for him before Cicero ſpoke the following Oration. We are told, that our Author was ſo very ſolicitous to out-do Hortenſius in his Pleading, that he could not ſleep a Wink the whole Night before the Trial, and that the Anxiety upon his Spirits had ſuch an Effect upon his Perſon, as to make him appear leſs than himſelf upon this Occaſion.

The Reader is to obſerve, that Murena, at the Time of ſpeaking this Oration, was Conſul Elect, and that it happened juſt at the Criſis of Catiline's Conſpiracy, and before he was defeated. Murena was acquitted with great Honour, and was Conſul next Year. It would likewiſe appear that Cicero by his great Addreſs found the Way to ſoften the Reſentment of his Proſecutors; for Cato, who was no Joker, ſaid, upon hearing the Manner in which our Author treated Sulpicius's Profeſſion, and his own Principles, What a merry Conſul we have got!

It was ſpoken in the latter End of the Year of Rome 690, while Antonius and Cicero were Conſuls, and in the 44th Year of our Author's Age.

M. T.

M. T. CICERO's

ORATION

FOR

L. MURENA.

MY Lords, according to Practice, and the Uſage of our Forefathers, on that Day when I regularly declared *L. Murena* Conſul at the *Centuriated Comitia*,* I prayed the Immortal Gods to render

* *Centuriated Comitia.*] The *Comitia Centuriata* were inſtituted by *Servius Tullius*, and was the fineſt Expedient ever deviſed by the Wit of Man, to preſerve the Balance of Power in the Government to Men of Property. It conſiſted of ſix Claſſes, which were ſubdivided into 193 Centuries. The firſt Claſs contained *ninety-eight* of theſe *Centuries*, and was compoſed of Men of Property in the whole State; the ſecond Claſs was compoſed of *twenty-two Centuries* of ſmaller Property; the third ſtill inferior to thoſe of the ſame Number of *Centuries*; the fourth of *twenty*

that Event happy and prosperous for me * for my Consulate, for the *People*, and for the *Commons* of *Rome*; † I now repeat the same Prayers to the same Immortal Gods, that *Murena* may enter

twenty Centuries; the fifth of *thirty*; and the sixth, which was made of all the poorer Sort who had no Property, of *one Century*. The Majority of Centuries determined every Question. Now the first Class containing a Majority of Centuries upon the whole, if they agreed, their Determination was *decisive*: But the Weight of the first Classes has still a greater Advantage; for the Centuries being proportioned to the Property which they possessed, one Century might contain but a very few Men, perhaps eight or ten, the Majority of whom decided the Vote of the Century.

Thus these five or six had the same Weight as another Century, which might consist of as many *Scores or Hundreds*, tho' in the same Class, and so in Proportion of all the rest. From this short View it is plain, that if the Centuries of all the first Class agreed, all Opposition from the others, tho' it had been unanimous, was in vain; and it seldom or never could happen, that any of the last three named Classes could have a Vote.

* *I prayed the immortal Gods to render that Event happy and prosperous for me.*] See *Livy B.* 39. *Ad hæc officia dimissis magistratibus, Coss. in Rostra ascenderunt, & concione advocata, cum solemne carmen precationis, quod fari prius quam populum alloquantur magistratus solent, peregisset Cos. ita cæpit.*

"For these Purposes the Consuls having dismissed the "Magistrates, mounted the *Rostra*, and summoning an "Assembly, after one of the Consuls had gone through "that solemn Form of Prayer, which Magistrates use be-"fore they address themselves to the People, he thus "began."

† *For the People and Commons of* Rome.] In the Original it is, *Populo Plebique Romanæ.* The Reader will please to observe, that the People of *Rome* comprehended all Ranks, both Senators and Commons. The *Plebs* was fix'd to the Commons alone.

enter with Honour and Safety upon his Conſulate; that your Sentiments and Deciſion may at the ſame Time be agreeable to the Wiſhes and Votes of the *Roman* People, and that this may be an Event which ſhall bring Peace, Tranquillity, Eaſe, and Concord to you and the Public. And if that ſolemn Invocation at the *Comitia*, conſecrated by Conſular Auſpices, has in it a Power and Reverence equal to the Dignity of the State: I likewiſe pray'd to the Gods, that the ſame might be a happy, joyful, and proſperous Event to thoſe Perſons, who, while I preſided, were choſen into the Conſulate.

HAVING ſaid thus much, my Lords, ſince all the Power of the Immortal Gods is either transferred to, or at leaſt communicated with you, the ſame Conſul who before recommended *Murena* to the Powers above, now recommends him to your Protection: That thus, as he was declared Conſul by the ſame Voice that now defends him, the Favour of the *Roman* People may be preſerved with your Welfare and that of the Public.

AND becauſe, in the Exerciſe of my Profeſſion, my Zeal for defending the Accuſed; nay, my undertaking his Defence is blamed by the Proſecutors; give me leave to make ſome Apology for myſelf, before I enter upon any for my Client: Not that I am more zealous to vindicate

vindicate my Profeſſion (at leaſt upon this Occaſion I am not) than my Client, but after having eſtabliſhed with you a good Opinion of my own Conduct, that I may with the greater Authority be able to repel the Attacks of his Foes upon the Honour, the Fame and Fortunes of *Murena*.

AND firſt, I ſhall take the Liberty to offer ſomewhat as to my appearing on this Occaſion, in anſwer to *Marcus Cato*, who ſquares the Conduct of his Life according to the unerring Rule of Reaſon, and weighs, with the moſt ſcrupulous Exactneſs,* the ſmalleſt Circumſtance of every Duty. *Cato* maintains, that I was in the wrong to have any Thing to do with the Defence of *Murena*; as I am Conſul, the Enactor of the Bribery and Corruption Act, and after behaving with ſuch diſintereſted Firmneſs in my Conſulate. The Cenſure of ſo great a Man is a very ſtrong Motive with me, why I ſhould not only account for my Conduct to you, my Lords, to whom I am moſt bound to do it, but to *Cato* himſelf, who is a Man of the greateſt Wiſdom and Integrity. But, *Cato*, give me leave to aſk you, to whom does the De-

* *And weighs with the moſt ſcrupulous Exactneſs.*] The Reader here has a lively and fine Picture of the Perſon and Principles of *Cato*, whom our Author rallies with ſo much Humour, that that great Man could not help ſaying, upon hearing this Oration, *What a merry Conſul we have got!* See *Plutarch*.

Defence of a Conſul fall ſo properly as to a Conſul? With what *Roman* in the State can I, or ought I to have more ſtrict Connections, than with that Man to whoſe Support, the State, maintained by the Greatneſs of my Toils and Dangers, was by me alone entruſted? For, if in Caſes of a Diſpoſition upon a Warrandice,* the Perſon who enters into a Bond is obliged to perform the Tenor of the Obligation; it is ſurely more proper upon the Trial of a Conſul elect, that the Perſon who declared him ſo, ſhould be the chief Inſtrument of maintaining the Favour of the *Roman* People, and repelling the Danger of *Murena*.

BUT, as is common in ſome States, if the Public ſhould appoint a Counſel to plead in this Cauſe, that Province would fall upon one who had borne a public Office equal to that with which the Accuſed is inveſted, that he might thereby employ in the Cauſe he eſpouſed, as much

* *For if in Caſes of a Diſpoſition upon Warrandice.*] To underſtand this Paſſage aright, it is neceſſary to ſet down the whole of the Original, *Quod ſi in iis rebus repetendis, quæ mancipi ſunt, is periculum judicii præſtare debet qui ſi nexu obligavit.* The Form of theſe Sales was as follows, the Perſon who was to diſpoſe of a Property to another, was obliged to give Bond, that in Caſe this Property ſhould *be evicted in Law* from the Buyer, by one who had a *prior* Title, then the Buyer could have Recourſe for his Indemnification upon the Seller. This is properly called, *Dare rem mancipi.* The *Nexus* is no other than the Bond, by which the Goods of the Seller were liable for the Performance.

having this Opportunity of gratifying the Dictates of my Nature and Practice. But perhaps in another Part of my Defence, I may have Occaſion to touch both upon my Duty as a Defender, and your Conduct as an Accuſer.

BUT, my Lords, the Complaints of the wife and the polite *Ser. Sulpicius* gave me as much Uneaſineſs as the Charge of *Cato*. *Sulpicius* ſays, that he is ſtrongly and deeply affected at my having forgot all the Ties of Friendſhip, and undertaken againſt *him* the Defence of *L. Murena*. My Lords, it is my earneſt Deſire that I ſhould ſatisfy this honourable Gentleman, and that you ſhould be the Umpires. For as the Charge of a Breach in Friendſhip, if well founded, is of the moſt heinous Nature, even when the Charge is groundleſs, it ought not to be deſpiſed. *Sulpicius*, I acknowledge, that in your Solicitations I owed you all good Offices, and every Mark of Duty, for theſe were due to our mutual Friendſhip, and I hope I have performed them. While you was a Candidate for the Conſulſhip, nothing was wanting in me for your Service, that could be required, either of my Friendſhip, my Intereſt, or my Influence, as Conſul.—But thoſe Days are over—Meaſures are altered.—It is my Opinion, and firm Perſuaſion, that you could demand nothing of me, which I ought not to have performed againſt

Mu-

Murena's *Preferment*, but that I owe you nothing againſt his *Life*. While you ſued for the *Conſulſhip* I was always ready at you Call, but I don't at all think, that for that Reaſon I am obliged to aſſiſt you now that you ſue for the *Life of Murena*. Surely it is not only *not commendable* but *diſallowable* for any Man to refuſe the lawful Defence of the meereſt Stranger, even tho' he is proſecuted * by our deareſt Friends.

But, my Lords, a long Intimacy has ſubſiſted betwixt *Murena* and me, an Intimacy that muſt not be ſtifled in a capital Impeachment carried on by *Sulpicius*, merely becauſe it gave way when the Struggle betwixt them lay for Preferment. But were this not the Caſe, yet the very Dignity of his Perſon, and the Eminence of the Rank he holds, muſt brand me with the higheſt Infamy of Pride and Cruelty, had I rejected a Cauſe which immediately endangered a Man rendered ſo illuſtrious by his own Virtues, and the Honours conferred on him by the People of *Rome*. For I am not now at Liberty to refuſe my Aſſiſtance in relieving the Diſtreſſes of Mankind. Becauſe after having been more nobly rewarded than ever any yet was for acting in this Sphere, I muſt

* *Tho' he is proſecuted.*] All this Paſſage upon what goes before, has a noble Frankneſs in it, which is uncommon even with our Author.

muſt behave like a crafty, like an ungrateful Perſon, ſhould I, after obtaining the Reward, lay aſide the Toils by which I obtained it.

JOYFULLY would I embrace Repoſe, could I do it by your Advice, without incurring the Scandal of Indolence, the Imputation of Arrogance, and the Reproach of Inhumanity. But if my declining Toil, my refuſing the Suppliant, and my neglecting my Friends, ſhould render me liable to the Charge of Supineneſs, Pride, and Impudence, this ſurely is a Cauſe which no Man who has Spirit, Compaſſion, or Senſe of Duty, can abandon. But you, *Sulpicius*, may from your own Practice eaſily form a Conjecture how you would behave in this Caſe: For if you think you are bound to give your Opinion, even to the Adverſaries of your Friends, ſhould they conſult you upon a Point of Law; and if you think it ſcandalous, were you his Chamber-Counſel in ſuch a Caſe, that the very Perſon againſt whom you *appear* ſhould be caſt, be not ſo partial while the copious Streams of your Advice are open to your Enemies, as to think that the little Rivulets of my Ability ſhould be ſhut to my Friends.

FOR if your Friendſhip had prevailed with me from undertaking this Cauſe, and if that had likewiſe been the Caſe with the illuſtrious *Q. Hortenſius*, *M. Craſſus*, and others, who I underſtand have the greateſt Regard for your Favour,

vour, a Conſul elect would then have been at a Loſs for a Defender in a City, where our Anceſtors never ſuffered even the meaneſt of the People to be without Counſel upon their Trial. For my own Part, my Lords, had I abandoned a Friend when diſtreſſed, and a Conſul, I ſhould have looked upon myſelf as *reprobate*, *barbarous* and *arrogant*. Therefore largely will I pay the Duties I owe to Friendſhip, by treating you, *Servius*, as if you were my deareſt Brother: As to the Duties of my Profeſſion, my Honour and my Obligation, I will act with ſuch Decency, as ſhall ſhew that I remember I am acting againſt the Heat of one Friend, for the Preſervation of another.

I apprehend, my Lords, that this whole Charge conſiſts of three Parts; the firſt, as to the Immorality of Life, the next regards a Competition for Dignity, and the laſt his Acts of Corruption.

As to thoſe three Charges, the firſt, which ſhould have been the moſt weighty, was ſo weak and trifling, that they were forced to touch upon the Morals of *Murena*, rather becauſe it is the Faſhion in all Impeachments,*

* *The Faſhion in all Impeachments.*] The Original has it, *Lex quædam Accuſatoria.* This Paſſage has given ſome ignorant People Occaſion to think, that there was a particular Law in *Rome*, called *Lex accuſatoria.* But it is plain

than becauſe they have any real Grounds for Reproach. They throw *Aſia* in his Teeth,* a Country which *Murena* did not viſit for the Purpoſes of Pleaſure and Luxury, but meaſured by the Toils of military Duty. If he had not in his Youth ſerved under his Father's Command, it might have ſeemed as if he had fear'd an Enemy or his Father's Diſcipline, or as if that Father had rejected him; but if Cuſtom indulges Sons,† eſpecially before they are of Age, to ſit in the triumphal Chariots, was *Murena* to decline adorning the Triumph of his Father with military Trophies, ſince his Actions ſeemed to give him a Right to an almoſt equal Glory with his Father in the Triumph.

BUT

plain that *Cicero* can only mean the Manner of proſecuting the Indictment, where the Charge muſt be ſwelled by ſtrong Allegations, however deſtitute they may be of Proof.

* *They throw* Aſia *in his Teeth.*] This Country was ſo delicious, that one who had been ſo long in it as *Murena*, was apt to incur ſome Suſpicion of Luxury. *Cicero*, with great Addreſs, clears him of this Charge, which was the more dangerous, in that ſeveral of the *Roman* Generals had been but two liable in that Reſpect before.

† *Cuſtom indulges Sons.*] Among the *Romans* their Generals who entered the City in Triumph, were allowed to have their Children and Relations of both Sexes, who were under Age, along with them in the Chariot; and if they were pretty well growrr for their Age, they rode upon the Triumphal Horſes; if there was a greater Number of them than could be conveniently accommodated either of thoſe ways, then they were ſuffered to ride behind the Chariot upon ſingle Horſes.

BUT for *Murena*, my Lords, he bore a great Share in encountering the Dangers, relieving the Fatigues, and congratulating the Victories of his gallant Father. And if that Country lies under any Imputation of Luxury, it is the Glory of *Murena*, not that he never ſaw it, but that he lived in it with Temperance. Therefore the Name of *Aſia* ought not to have been any Objection to *Murena*, ſince from *Aſia* the Glory of his Family, the Reputation of his Race, and the Honour and Renown of his own Perſon are derived. But his Accuſers are to prove ſome ſcandalous Actions, that he either practiſed in *Aſia*, or has imported from it: But to ſerve in a War not only the greateſt, but the only one then carried on by the People of *Rome*, to ſerve with Chearfulneſs in an Army which his Father commanded, to obtain at the End of his Service the Victory and Triumph of his Father, are Proofs of his Courage, his Piety, and his Felicity. There can be no Room for Reproach in thoſe Tranſactions, becauſe their whole Extent is filled with his Glory.

CATO calls *L. Murena* a Dancer.* If this Charge is well founded, it is the Charge

* *A Dancer.*] The Reader is not to imagine from this Paſſage, that the *Romans* condemned all Manner of Dancing; for there were ſeveral Sorts of Dances which they thought contributed both to the Gracefulneſs and Activity

of an eager Accuſer. But if without Foundation, it is the Language of ſlanderous Reproach. Therefore, *M. Cato*, a Man of your great Weight, ought never to ſnatch a Charge from the Mouths of the Rabble, or the low Malice of Buffoons; nor ought you raſhly to call a Conſul of *Rome* a Dancer, but to conſider what other Vices muſt neceſſarily center in that Man who can be guilty of ſuch a Charge. For ſcarcely any Man who is free from Drink, and has at the ſame Time the Exerciſe of Reaſon, ever dances; it is never practiſed when People are alone, or at their ſober decent Entertainments. Dancing is the utmoſt Extravagance attending long continued Debauch,* delightful Scenes, and numerous Enchantments of Pleaſures. You prematurely ſnatch at a Charge which neceſſarily muſt be the Reſult of all other Vices, and you omit thoſe Charges without which it is abſolutely impoſſible for this Vice to exiſt. You have offered no Evidence as to his ſcandalous Entertainments, as to his Amours, his Debauches, his Luſts, or his Prodigality; and if none

vity of the Body in handling their Arms, *&c.* The Dancing here reproached is the effeminate Dancing uſed by Stage-Players.

* *Long continued Debauch.*] The Original has it *Tempeſtivi convivii*; ſome Commentators want to read *Intempeſtivi convivii*: *Tempeſtiva convivia* were thoſe Entertainments that began before the uſual Time for Supper among the *Romans*.

none of thoſe Charges can be fix'd, which are accounted Pleaſures, and are in reality Vices, do you imagine, that you can find the Shadow of Luxury in the Man upon whom you cannot fix the Subſtance?

CAN nothing then be objected to the Morals of *Murena*? Nothing at all, my Lords. The Conſul elect, for whom I now plead, has no Charge brought againſt his Morals, no Inſtance of Fraud, none of Avarice, none of Treachery, none of Cruelty, none of any Indecency of Expreſſion! It is well, the Foundation of my Defence is laid; for I have not yet pleaded in his Defence my own Senſe of his Merits, which I ſhall afterwards do: But I have proved him to be a worthy, virtuous Man, almoſt by the Confeſſion of his Adverſaries. Having done this, it will be more eaſy for me to enter upon the Diſpute with regard to his Dignity, which was the ſecond Part of the Charge.

I CAN perceive, *Servius Sulpicius*, that you have all the Dignity which the higheſt Quality, Virtue, Application, and all other Accompliſhments can beſtow, and that theſe give you an undiſputed Title to aſpire to the Conſulate. I known that *Murena* is your Equal in all thoſe Qualifications, and ſo much your Equal, that no Man is ſuperior to him, nor is he ſuperior

to you in Dignity. The Blood of *L. Murena* you have deſpiſed, your own you have exalted. Upon this Head, if you lay it down as a Principle, that none but a Patrician * is of an honourable Race, you ſeem again to ſummon the Commons of *Rome* to the *Aventine* Mount. But if there are Plebeians of illuſtrious and honourable Families, then the Great Grandfather, and Grandfather of *L. Murena* were Prætors; and his Father, after having had a noble and a glorious Triumph the Year after his Prætorſhip, by this Means rendered the Acceſſion of his Son to the Conſulſhip more eaſy, becauſe he only demanded for himſelf what was due to his Father. As to your Quality, *Servius Sulpicius*, tho' it is the higheſt, yet it is more known amongſt learned Men and Hiſtorians, than to the People while aſſembled together to give their Votes: For your Father was a *Roman* Knight, and your Grandfather was diſtinguiſhed by no particular Character

* *Patrician.*] A Man might be of a Patrician Race, and yet no Senator; but ſome of his Anceſtors muſt have been Patricians or Senators. *Sulpicius* was of a Patrician Race, and his Father was no Senator, being only a *Roman* Knight. The Irony here upon *Sulpicius* is very ſtrong; becauſe it ſeems as if none of his Anceſtors had been in the Senate for many Years; and at the ſame Time *Cicero* inſinuates, that this obſolete Nobility was not near ſo valuable as that of ſome Perſons, whoſe Anceſtors, or themſelves, had, ſince the Seceſſion upon the *Aventine* Mount, done great Service to the State.

racter of Glory. Wherefore the Nobility of your Race does not live upon the Tongues of your Cotemporaries, but muſt be ranſack'd out of the Antiquity of old Chronicles: Therefore I always uſe to rank you in my own Claſs, becauſe, tho' you was but the Son of a *Roman* Knight, you have raiſed yourſelf by Virtue and Application, to be eſteemed equal to the higheſt Honours of your Country: Nor did I ever think the brave *Quintus Pompeius*, tho' but a new Man, far ſhort in Virtue to the noble *Marcus Æmilius*, becauſe it ſhewed the ſame Soul and Spirit to tranſmit to his Poſterity, as *Q. Pompeius* did, that Renown which he has not received from his Anceſtors; as appears in *Scaurus*,* who, by his Virtue, renews the almoſt extinct Glories of his Race.

YET, my Lords, I imagined that by my Toils I had effectually prevented the Obſcurity of Birth† from being an Objection to many brave

* *Scaurus.*] This Gentleman was of a very old *Roman* Family, which for ſome Ages was ſo poor as not to poſſeſs a Qualification for any public Employment; but afterwards he came to be *Princeps Senatus*, that is, the firſt Senator upon the Cenſor's Roll; and conſequently had Precedency *after the great Officers of State.*

† *Prevented the Obſcurity of Birth.*] Not one of the Commentators appears to have underſtood the leaſt of this Paſſage: *Camerarius* juſt touches upon it, but does not pretend to explain it; *Sylvius* has pretended to explain it, but has blundered moſt egregiouſly, without *Grævius* venturing to ſet him right; and all the other Commentators, as uſual in difficult Paſſages, have obſerved a profound

Men, who were before eclipſed, by the vaunted Names not only of the *Curii*, the *Catones*, the *Pompeii*, all of them old *Romans*, and of the greateſt Courage, yet of new Families, but by thoſe too of later Date, the *Marii*, the *Didii*, and the *Celii*: But when I, after ſuch a Diſtance of Time, had broken through that Barrier of the Nobility,* ſo as to render for ever after the Acceſs to the Conſulate as open to *Virtue* as to *Nobility*, (for ſo it was in the Days of our Anceſtors) I did not imagine,

Silence upon it. It may be uſeful for the Reader to remember, that *Homines novi* were thoſe who had no Right to have their Anceſtors Images in their Houſes or Proceſſions, but had a Right to have their own; whereas *Homines ignobiles* had no Right to have either their own or thoſe of their Anceſtors.

* *Barrier of the Nobility.*] It was a noble and a juſtifiable Struggle which the Commons of *Rome* made againſt the Monopoly of public Honours in the Body of the Nobility. The firſt Time they obtained the Privilege of being in a Capacity of having a Conſul choſen out of their Body, was about the Year of *Rome* 390. But the *Qualification Acts* that were made afterwards, in a great Meaſure, reduced the public Honours again to a Monopoly in the Hands of the Nobility, eſpecially upon *Sylla*'s Succeſs. This Circumſtance is another Proof of what I obſerved in the Notes, *Page* 5. of this Volume, that the *Roman* Conſtitution, as altered upon the Expulſion of Kings, was a mere Piece of Patch-work, as indeed all Conſtitutions muſt be upon ſudden Revolutions of Government. The People perhaps would never have found this out, had they not *felt* it; but they had good Senſe enough, after they felt it, not to be beat out of the Meaſures they purſued to remedy it, by high ſounding Names of Power, Authority, or Laws. They thought it was a Right they were entitled to by the Nature of their Conſtitution, and by Reaſon itſelf; and therefore they inſiſted upon it.

imagine, that the Profecutors would bring the *Newneſs of a Family* in diſpute, when a Conſul elect, of old and illuſtrious Deſcent, was defended by a Conſul who is himſelf the Son of a *Roman* Knight: For I my myſelf happened to ſtand in Competition with two Patricians, one the moſt wicked and audacious, the other the moſt modeſt and virtuous of Mankind; yet in Dignity I was ſuperior to *Catiline*, and in Intereſt to *Galba*; and ſurely could my Succeſs have been charged upon me as a Crime, becauſe I was a *new Man*, I never ſhould have been ſpared by thoſe who either oppoſed or envied me.

But to leave this Subject of their Birth, in which both are eminent, let us proceed to the other Points: Says he, *He ſtood with me for the Quæſtorſhip, and I was firſt declared.* It is unneceſſary to anſwer every Particular; for all of you, my Lords, are ſenſible that when many Candidates are equal in Dignity, when only one of them can have the Preference of the other, the Degree of Dignity is no Rule for that of the Declaration; becauſe the *Declaration* gives a Rank,* whereas all of them are oftentimes equally entitled by their Dignity.

* *The Declaration gives a Rank.*] This Paſſage is extremely perplexing; ſome Commentators particularly the accurate *Hottoman*, thinks there is ſomething wanting in the Original. But the Words and Conſtruction are plain,

ty. But the Quæſtorſhip allotted to each was almoſt of equal Importance. My Client had the Allotment of a Province, eaſy and quieted by the *Titian* Law;* whereas you had that of *Oſtia*, which generally upon the Quæſtor's drawing Lots for the Provinces, is hollowed at, as being attended with more Buſineſs and Fatigue than Power and Honour. The Reputations of neither of you made any Progreſs in your Quæſtorſhip; for your Fortune had given neither of you a Field for exerting and approving your Virtues. Your Conduct, during the reſt of your Time, is now to be examined; wherein the one took a quite

plain, the Senſe only is puzzling. I have tranſlated it as I believe *Cicero* meant it, but it would ſwell theſe Notes too much, were I to give my Reaſons why I have tranſlated this, and a vaſt Number of other Paſſages in the Manner I do.

* *Titian Law.*] Orig. *Habuit hic lege Titia provinciam tacitem & quietam.* Here indeed the Commentators have Reaſon to pore, and diſplay their Learning and Skill at conjecturing. For 'tis plain, that the Provinces both of *Murena* and *Sulpicius* were by Allotment, *i. e. they drew Lots for them*, yet we ſee here that *Murena* had his by the *Titian* Law. I will not trouble the Reader with what has been written with regard to this *Titian* Law, ſince *Grævius* himſelf, after all his Pains in canvaſſing, owns, that all he or any body elſe has ſaid upon the Head is *mera conjectura.* I have tranſlated it in a Light never conſidered by the Commentators; and though we don't know to what Effect, or to what Purpoſe this *Titian* Law was paſt, yet the Manner I have tranſlated this Paſſage in, ſaves at leaſt the Contradiction, that ſtares full in the Face, by underſtanding it in the Senſe of all Commentators.

quite different Courſe from the other. *Servius* here enliſted himſelf in our *City Service* of giving Opinions, drawing up Rules, and making out Securities,* painful and provoking Buſineſs! He ſtudied the Civil Law; great was his Vigilance, great was his Application; and many did he aſſiſt. He bore the Impertinence of Numbers; he put up with their Arrogance, and devoured all their Doubts; he lived ſo as to pleaſe others, and not himſelf. Great is that Glory, and recommending to Mankind, when one Man toils in the Science by which thouſands are to profit.

WHAT was *Murena* doing in the mean Time? He ſerv'd as Lieutenant-General to the wiſe

* *Giving Opinions, drawing up Rules, and making out Securities.*] Orig. *Urbanam militiam* RESPONDENDI, SCRIBENDI, CAVENDI, leſt I have not hit upon the true Meaning of theſe Words, in the Expreſſions I have uſed here, as I imagine I have, I will give the Reader an Account of the Senſe which each of them was uſed in, in the Civil Law, of which they are Terms. *Reſpondere* was when one told a Client, in a Caſe, what the Law ſaid or required, in the following Form, *Hoc in lege ſcriptum eſt; hoc jus poſtulat*; if the Party was looked upon as a Man of Senſe, this was done in Words; but if he was ignorant, the Lawyer gave it in Writing.

Scribere was not, as appears at firſt Sight, *to write out Opinions*, but to inform the Client of the Rules and Forms that the Court required.

Cavere was, I think, properly applied to making out Securities in Contracts, tho' I know it was uſed likewiſe in giving Opinions upon Bargains, Sales, Law-Suits, and every Thing that could ſerve a Client in his Affairs before a Court of Juſtice.

wiſe and accompliſh'd Perſon, and great General, *L. Lucullus*. In this Poſt he was at the Head of an Army; he join'd Battle, defeated the numerous Troops of the Enemy, and took their Towns, partly by Storm, and partly by Siege; he marched over the rich and voluptuous Country of *Aſia*, without leaving behind him the leaſt Mark either of Avarice or Luxury, and behaved in that great War in ſuch a Manner, as to perform many great and important Services without his General; but his General none without him. Tho' I ſpeak this in Preſence of *Lucullus*, yet leſt it ſhould ſeem in Conſideration of my Client's Danger, that he had given him the Liberty of tranſgreſſing the Bounds of Truth, give me Leave to ſay, that I have not advanced any Thing that is not warranted by public Letters, in which *L. Lucullus* attributes more Glory to *Murena*, than any General who is biaſs'd either by Ambition or Envy, will ever allow to another in a Diviſion of Fame.

BOTH Competitors are Men of *ſtricteſt Honour*, and *higheſt Quality*; and would *Servius* give me Leave, I would put the *Dignity* of both upon the ſame Level; but he will not. He reproaches his military Capacity; inveighs againſt all his Service in the Lieutenancy, and thinks that the Conſulate is due only to Application,

cation, and thoſe droning daily Exerciſes of ours. Have you ſerv'd me,* ſays he, ſo many Years in the Army, without coming near the *Forum*? Have you now, tho' at ſuch a Diſtance of Time, come to diſpute a Point of Precedency with thoſe who have dwelt in the *Forum*? In the firſt Place, *Servius*, you are ignorant how much Diſguſt and Loathing† this conſtant Appearance of ours ſometimes creates. It was indeed extremely convenient for me, that my Popularity was founded upon my daily Appearance in public; yet it was with great Application, that I got the better of this Diſtaſte to my Perſon: You, perhaps, have done the ſame, yet our keeping ſometimes at a Diſtance would have been no Diſſervice to either of us.

BUT dropping this Reflection, let us return to the Diſpute betwixt their different Purſuits and Profeſſions. Will any Man alive make a Doubt

* *Have you ſerved me.*] Orig. *Apud exercitum mihi fueris.* I have tranſlated this Paſſage in the ſame Manner as *Cicero* meant it. It is plain that *mihi* has no Manner of Buſineſs here; yet it appears that this Pronoun was very often thrown in, to give a Quickneſs to the Sentence in common Diſcourſe.

† *How much Diſguſt and Loathing.*] The beautiful String of Antitheſes which follow here, was neceſſary to give a high colouring to a Picture which *Cicero* himſelf thought, as appears by the conſtant Train of his own Practice, and Tenor of his Writings, was neither agreeable to Truth nor Nature.

Doubt that military Accompliſhments give much more Dignity to a Candidate for the Conſulate, than any Excellency in the Civil Law? You get up long before Day-light to give Counſel to your Clients, and he, that he may arrive in good Time with his Army to the End of his March. You are awaked by the crowing of a Cock, and he by the ſounding of Trumpets. You draw up a *Proceſs*, and he marſhals an Army. You make out Securities for Clients, he for Towns and Camps. He knows how to guard againſt the Attacks of an Enemy, and you againſt the Inconveniency of a Drain or Water-Spout. He is employed in enlarging Territory, and you in regulating it. And if I may ſpeak my Sentiments, it is but juſt that military Glory ſhould have the Preference of any other.

To this, the Renown of the *Roman* People, and the eternal Glory of this City is owing; it was this that forced the World to ſubmit to our Empire; it is military Glory that guards, protects, and covers all theſe our Domeſtic Tranſactions, all theſe noble Studies of ours, and all this our Pre-eminence, and Application in the *Forum*; for no ſooner does the leaſt Whiſper of any public Diſorder ariſe, than all thoſe Arts of ours are ſilenc'd.

BECAUSE you ſeem to fondle your favourite Profeſſion of the Civil Law, as if it were the Darling of your Boſom. I will not ſuffer you to continue any longer in ſo great a Miſtake, as to imagine that there is any Glory in this, (what ſhall I call it) which you have learned ſo laborioufly. It was from other Virtues, ſuch as Continence, Decency, Juſtice, Honour, and every other good Quality, that I always judged you to be moſt worthy of the Conſulſhip and every Diſtinction of Honour. By learning the Civil Law, I will not ſay that you have loſt your Labour, but I will venture to ſay, that there is nothing in that Study which can pave your Way to the Conſulſhip: For all the Arts by which we recommend ourſelves to the Affections of the *Roman* People, ought to be venerable by their Dignity, and endearing by their Utility.

THEY who excel in military Accompliſhments, are poſſeſſed of the higheſt Dignity, for all the Civil Polity of this Empire and City are ſuppoſed to be protected and eſtabliſhed by them. They are likewiſe of the higheſt Utility, as it is by their Conduct and Dangers only, that we can enjoy either public Liberty, or private Property; Eloquence likewiſe * is efficacious,

* *Eloquence likewiſe.*] I have obſerved elſewhere, that *Cicero*

efficacious, and full of Dignity, as it has been often prevalent in the Choice of a Conſul, by its Addreſs and Language, to touch the Affections of the People, the Senate, and the Judges: The Public requires a Conſul whoſe Eloquence can ſometimes compoſe the Madneſs of Tribunes, command the Fury of the People, and ſtop the Current of Corruption. It is therefore, no Wonder, if ſome who are not Noblemen, have, by this Art, attained to the Conſulſhip; eſpecially, as at the ſame Time, it procures the ſtrongeſt Intereſts, the firmeſt Friendſhips, and the warmeſt Zeal; Advantages, *Sulpicius*, of which this Trade of yours is abſolutely deſtitute.

IN the firſt Place, where can there be any Dignity in ſo trifling a Science? For the Subjects of it are minute, and conſiſt almoſt entirely in canvaſſing ſingle Letters, and the Stops of Sentences. In the next Place, tho' our Forefathers uſed to ſtare with Admiration at that Study, now that the whole Myſtery is divulged, it is quite deſpiſed and diſregarded. Very few People knew whether an Action could be brought or not; for Almanacks were very uncommon

Cicero never fails of throwing in ſome Compliment or other to his own Accompliſhments, and favourite Profeſſion. In this Paſſage he treats the Study of the Civil Law with great Contempt; though in other Places he has given it, and deſervedly too, great Encomiums.

common.* Thoſe who were conſulted upon this Head, were looked upon as mighty Men, and they were repaired to, as to ſo many Aſtrologers, to tell even the proper Terms of Ac-

 tions.

* *Almanacks were then very uncommon.*] From this Paſſage it appears, that the Prieſts had a great deal to ſay in the Management of the Civil Polity of *Rome*; for they were the only Perſons who knew the *Dies faſti & nefaſti*, that is, the Days when a Man could demand Juſtice (*lege agere*) of the Prætor. See *De Oratore*, *p.* 85. of the Tranſlation.

We have an exceeding curious Paſſage, which clears up the whole of this dark Event, in the Words of *Pomponius*. (See the Pandects of the Civil Law, *Tit. de Origine Juris*,) which I will give the Reader.

Deinde ex his legibus eodem fere tempore actiones compoſitæ ſunt quibus inter ſe homines diſceptarent, quas actiones ne populus ut vellet inſtitueret, certas, ſolemneſque eſſe voluerunt, & appellabatur hæc pars juris legis actiones; & ita pæne eodem tempore tria hæc jura nata ſunt; Leges 12 *Tabularum; ex his fluere cæpit jus civilæ, ex iiſdem legis actiones compoſitæ ſunt.* OMNIUM TAMEN HARUM ET INTERPRETANDI SCIENTIA ET ACTIONES APUD COLLEGIUM PONTIFICUM ERAT. *Ex quibus conſtituebatur quis quoque anno præeſſet privatis: Et populus prope centum Annos hac conſuetudine uſus eſt. Poſtea cum* Appius Claudius *diſpoſuiſſet & ad formam redigiſſet has actiones,* Cn. Flavius *ſcriba ejus libertini filius ſurreptum librum populo tradidit: & adeo gratum munus populo fuit ut Trib. Pleb. fieret, & Senator & Ædilis curulis. Hinc liber qui actiones continet appellatur* Jus Civile Flavianum.

" Then almoſt at the ſame Time *Actions* (or Forms)
" were compoſed out of thoſe Laws, by which Men diſ-
" puted with one another; which Actions, leſt the Peo-
" ple ſhould appoint them when they pleaſed, were re-
" duced to ſtated and ſolemn Terms; and this Part of
" the Law was called *Legis Actiones*, the Forms of the
" Law. Thus, almoſt at one Time, theſe three Kinds
" of Laws ſprung up, The Laws of the XII Tables; from
" them proceeded the Civil Law, and from the Civil

" Law

tions. At laſt, a Scribe, one *Cn. Flavius*, outwitted the Outwitters of Mankind,* by ſetting up Almanacks, with the proper Diſtinctions of Days, to the public View, and pilfering the very Lawyers themſelves of all their Knowledge. Therefore in great Wrath (becauſe they were afraid, that if once the Method of knowing the proper Days was publiſhed, People might bring Actions without their Help) they contrived a Kind of a Short-Hand,† by which

" Law, the *Legis Actiones. But the Knowledge of all*
" *thoſe, with the* Actions *themſelves, was confined to the*
" *Pontifical College*, out of which the Judges of private
" Property were every Year appointed, and the People
" went by this Uſage for near 100 Years. Afterwards,
" when *Appius Claudius* had digeſted and modelled theſe
" Actions, *Cn. Flavius*, his *Scriba* (his Amanuenſis) the
" Son of a Freedman, ſtole the Book, and publiſhed it for
" general Uſe. This Preſent was ſo agreeable to the
" People, that he was made Tribune of the Commons,
" and Senator and *Curule* Edile. Thence the Book con-
" taining thoſe *Forms (Actions)* is called, *The* Flavian
" *Civil Law.*

* *Outwitted the Outwitters of Mankind.*] Orig. *Cornicum oculos confixerit.* Prov.

† *Short-Hand.*] We here ſee the Antiquity of Short-hand Writing; for the *Notes* here mentioned in the Original, were nothing but a way of expreſſing a great many Words by a few peculiar Characters. I will not ſwell theſe Notes with all the Lumber of Learning, and Parade of Quotations, to prove what no body diſputes, but will, for my Reader's Inſtruction, put him in mind, that the *Romans* had two Methods of Abbreviation, the one was by *Siglæ*, the other by *Notæ*. The *Siglæ* were the initial Letters of ſo many Words as S. P. Q. R, *Senatus Populus Que Romanus*, D. O. M, *Deo Optimo Maximo*, &c. The *Notæ* were Abbreviations of the very ſame Nature with our Short-Hand.

which they themſelves might be employ'd in all Cauſes. Yet People might very conveniently have gone to Law in this Manner.—Says one, *That* Sabine *Eſtate is mine*; *No, 'tis mine*, ſays another.—*Then give Judgment*. By no Means, this will not do, ſays the Civilian, THOSE * PREMISSES WHICH LIE IN THE SABINE COUNTRY COMMONLY SO CALLED;—*Verboſe* enough of all Conſcience. Well, what next? I CLAIM BY VIRTUE OF THE COMMON LAWS OF THE LAND AS MY PROPERTY. What then? AND THEREFORE I HEREBY GIVE YOU FAIR AND SPECIAL WARNING TO MOVE OFF OF THE PREMISSES. The Defendant was then quite at a Loſs for an Anſwer to this Beadroll of Law-terms. And then the ſame Lawyer goes on like a Country Ballad-Singer in the ſame Cant, FROM THOSE PREMISSES OFF OF WHICH YOU HAVE GIVEN ME FAIR AND SPECIAL WARNING TO MOVE, I HEREBY GIVE YOU WARNING TO MOVE IN LIKE MANNER. In the mean Time, leſt the Prætor † ſhould imagine him-

* *Thoſe Premiſſes.*] All the following Cant which *Cicero* here repeats to ridicule the Forms of the Civil Law, might be eaſily explained from Law-Books; but as I can ſee very little Uſe that could be of to an *Engliſh*, or indeed any other Reader at this Time, I ſhall omit any farther Remark upon it.

† *The Prætor.*] This is intended to ſhew the Cunning and Inſolence of thoſe Lawyers, who fell upon a Way to oblige even the Civil Magiſtrate to con over their Gibberiſh.

ſelf happy in having nothing to do with this Gibberiſh, and think himſelf capable to ſay ſomething out of his own Head, a Cant was compoſed for him likewiſe, both ſilly and inſignificant, THE BODIES OF BOTH PARTIES BEING PRESENT, YOU ARE TO ADVANCE THIS WAY. Now the ſame Sage who was to inſtruct them to advance was upon the Spot; ſays he, RETURN THIS WAY; then they return under the ſame Guide. Even with thoſe long-bearded Gentlemen, this was thought a ridiculous Farce; that Men who were ſtanding uprightly and conveniently upon a Place, ſhould be ordered to *move* off, in order immediately to return to the ſame Place.

EVERY Thing was infected with the like Impertinences, WITH FEAR I BEHOLD THEE PERSONALLY PRESENT IN COURT; and as, BUT DO YOU COMPLY WITH THE FORM, TO ELUDE THE JUDGMENT. While theſe Things were Secrets, it was neceſſary to have Recourſe to thoſe who poſſeſſed them, but after they were publiſhed, and came to be more nearly examined, and canvaſſed, they were found quite void of all Meaning, but brim-full of Roguery and Folly. All the noble Inſtitutions of the Law were moſtly debauched, and depraved by the Quirks of Lawyers; they required Women of all Denominations

nominations to be under Covert of Guardians, becauſe they were the weaker Veſſels; but Lawyers invented a Set of Guardians whoſe Powers are regulated by *their* Wards.* Our Anceſtors were willing to perpetuate religious Rites, but theſe Gentlemen, the Lawyers, were ingenious enough to find out old Men to deſtroy thoſe Ordinances, by making imaginary Bargains and Sales. In ſhort, thro' the whole Syſtem of the Civil Law, they have abandoned the Equity of the Intention, and ſtuck to the Letter of the Law. As, for Inſtance, they concluded that all Women who were married by Contract † had the Name of *Caja*, becauſe that Word was found in ſome of their Books. And even at this Time, it is ſurprizing to me, that ſo many ingenious Men, for ſo long a Track of Years, have not been able to aſcertain, when it is proper to uſe the Word *third Day*, or the *Day*

* *By their Wards.*] Among the old *Romans*, every Woman had a Guardian, even tho' Adult and a Widow; but the Lawyers fell upon a Way afterwards of giving the Huſband a Power in his Will of leaving his Wife at Liberty to chuſe what Guardian ſhe pleaſed.

† *Married by Contract.*] The Word *Coemptio*, which *Cicero* twice uſes here in a very few Lines, has a very different Signification in the one Place, from what it has in the other. The firſt *Coemptio* was, when an old Man, in order to elude the Rites that were uſed when a Succeſſion devolved upon an Heir, was ſuppoſed to buy an Eſtate, and then inveſt an imaginary Heir with it. As to the *Coemptio* here mentioned, ſee the Index to *Cic. de Orat.* under the Word *Coemptio*.

after the Morrow, Judge or *Arbiter, an Action* or *a Plea.*

THEREFORE, as I have already ſaid, there never was any Conſular Dignity, and far leſs any Beauty, in that Knowledge which conſiſts entirely in Forgery and Impoſition. For a Thing muſt be very diſagreeable, that is proſtituted to every Perſon, and equally ſerviceable to me and my Antagoniſt. Therefore, you have loſt not only all the Hopes of being of Advantage to Society, but even the Forms which you have ſo long enjoyed, of *Give us leave, Sir, to apply for your Opinion.* No Man can be accounted a Man of Senſe for his Skill in a Knowledge which never was uſeful without the Walls of *Rome*, and in Vacation-time is uſeleſs in *Rome* itſelf. No Man can be ſaid to be cunning in a Matter which is ſo well known to all Mankind, that it is impoſſible there ſhould be any diſpute about it. And a Thing is not thought to be difficult, which is contained in a few, and thoſe plain Writings. Therefore, tho' I have a great deal of Buſineſs upon my Hands, if you provoke me, I will take my Degrees as a Civilian in three Days. For there are certain Forms already reduced to Writing, that ſerve for all the writing Buſineſs of this Profeſſion. And there is no Writing can lie in ſo narrow a Compaſs, as that I cannot perceive its Drift.

As

As to the conſultive Part of the Buſineſs, one runs no Riſque at all in giving his Opinion; if you give a right Anſwer, he will think it agrees with that of *Servius*; if not, he will think that you know how to manage the controverted Points of Law.

THEREFORE the military Glory of my Friend is not only preferable to your Forms and Actions; but even the Practice in ſpeaking is far more conducive to the attaining of public Honours, than is the whole Compaſs of your Profeſſion. So that it would ſeem to me as that moſt of thoſe Profeſſors, having firſt aimed at Eloquence, fail'd as Orators, and then ſunk into Civilians; as we ſay of *Grecian* Players, that an indifferent Harper may make an excellent Piper. Thus we ſee ſome People who cannot turn out *Speakers*, fall into the Profeſſion of *Lawyers*. Great are the Toils of Eloquence, their Buſineſs is important, their Dignity eminent, but all Popularity is *all commanding*. For you are applied to for *Remedies*, but they, for *Health itſelf*. Beſides, your Opinions and Deciſions are often overturned by the Force of Eloquence, and can never be ſtrong but by the Pleading of an Orator. Had I made ſufficient Progreſs in this Art, I ſhould be more ſparing in its Praiſes; but, at preſent, nothing I ſay is ap-

plicable to myſelf, but to thoſe who either are, or have been eminent for Eloquence.

THERE are two Arts capable of placing Mankind in the higheſt Degree of Dignity, that of a *good General*, and that of a *good Orator*; for by the laſt, the Beauties of Peace are preſerved, and by the firſt, the Dangers of War are repelled. Other Virtues are, in their own Nature, of great Prevalence, ſuch as *Juſtice*, *Honour*, *Modeſty*, *Temperance*, Virtues in which you, *Servius*, are univerſally allowed to excel. But the Diſpute now is with regard to thoſe Accompliſhments which lead to Pre-eminence, and not upon the intrinſic Merits of particular Perſons. All theſe Studies drop out of our Hands, as ſoon as any ſudden Commotion gives the Alarm to War. For as an ingenious Poet * of great Authority, obſerves, *That when War is declared, not only that wordy Ape of good Senſe, but Wiſdom herſelf, the Miſtreſs of Affairs, is expelled the Field. All Buſineſs is the Buſineſs of the Sword. The Speaker falls into Contempt.*

NOT only the hateful pratling Speaker, but even,

All beauteous Eloquence reſigns her Charms
To the grim Soldier dreſſed in horrid Arms.

As

* *An ingenious Poet.*] He means *Ennius*. Theſe Verſes are likewiſe quoted by *Gellius*.

As for your Profeſſion, it is then entirely trampled under Foot: The Poet proceeds;

'Tis not the Form of Law that fixes Right,
But the bold Hand that knows to dare in Fight.

If this is the Caſe, *Sulpicius*, in my Opinion, the *Forum* muſt yield to the *Camp*, *Repoſe* to *Warfare*, the *Pen* to the *Sword*, and a *ſhady Retirement* to the *ſcorching Sun*. To conclude, that Profeſſion muſt be moſt eminent in a State, which gives that State the Pre-eminence over all others.

But *Cato* tells you, that I have exaggerated all his Atchievements, and have forgot that all the *Mithridatic* War was a War with Women. My Lords, I happen to be of a quite different Opinion. I will take up your Time with but a very few Words with Regard to that War, becauſe the Streſs of my Cauſe does not lie upon that. For if all our Wars with the *Greeks* are deſpicable, we may laugh at the Triumph of *M. Curius* over King *Pyrrhus*, of *T. Flaminius* over *Philip*; of *M. Fulvius* over the *Ætolians*; of *L. Paulus* over King *Perſes*; of *Q. Metellus* over *Philip* the *Pretender*; of *L. Mummius* over the *Corinthians*. But if theſe Wars are Wars of Importance; and if theſe Victories were very conſiderable, why do you

deſpiſe

deſpiſe *Aſia* as a Nation, and *Mithridates* as an Enemy.

NAY, I perceive in the old Records of our Hiſtory, that even our moſt important War was betwixt the People of *Rome* and *Antiochus*. When *L. Scipio* had, with his Brother *Publius*, put a glorious End to that War, he added to his own Name the ſame Honour from *Aſia*, as his Brother, upon his conquering *Africa*, had before added to his. It was in this War that your Great Grandfather, *Marcus Cato*, eminently diſtinguiſhed himſelf by his Courage: And if he, as I imagine him to have been, was then ſuch a Perſon as you are now, he never would have ſerved under *Scipio*, if he had thought he was to fight with Women. Nor, indeed, would the Senate have been at Pains to prevail with *Scipio* to have gone as Lieutenant to his Brother, when he had juſt driven *Hannibal* from *Italy*, baniſhed him out of *Africa*, demoliſhed *Carthage*, and freed his Country from the moſt imminent Dangers, had it not been thought a weighty and a bloody War.

AND if you deliberately conſider the Power, the Actions, and the noble Qualities of *Mithridates*;* you will find Reaſon to prefer this Prince

* *Mithridates.*] The Reader will conceive a great Opinion of this Prince's Power and Abilities, by the many great Stands he made againſt the *Roman* Generals, and the great

Prince to all the Princes that ever waged War with the People of *Rome*. He was a Prince whom *Lucius Sylla*, who, to ſay no greater Things of him, was no raw Commander, while at the Head of a numerous and brave Army, thought fit to ſuffer to depart in Peace ;* tho' he had offered him Battle, and ſpread the Terrors of War over all *Aſia*: A Prince, whom *L. Murena*, my Client's Father, after having harraſs'd with indefatigable Activity and Diligence, in a great Meaſure left *check'd*, but not *conquered*: A Prince, who after taking ſome Years for eſtabliſhing his Finances, and recruiting his Armies, recovered ſo much Power and Spirit, as to think of joining the Ocean with the *Pontick* Sea, and the Troops of *Sertorius* † with his own !

Two Conſuls ‡ were ſent to this War, and ſuch

great Reſources he always found out after being overthrown. See the Oration for the *Manilian* Law.

* *To depart in Peace.*] *Plutarch* tells us, that in the Peace *Sylla* made with *Mithridates*, it was ſtipulated, that he ſhould evacuate *Aſia* and *Paphlagonia*; give up *Bithynia* to *Nicomedes*, and *Cappadocia* to *Ariobarzanes*; that he ſhould pay them 2000 Talents, and give them 70 of his Ships of War: For all which *Sylla* engaged,—That *Mithridates* ſhould be left in Poſſeſſion of his parternal Eſtates, and be called *The Ally of the* Roman *People*.

† *Troops of* Sertorius.] See the Oration for the *Manilian* Law, where the hiſtorical Facts mentioned here, are more fully explained.

‡ *Two Conſuls.*] *Viz. L. Lucullus* and *M. Aurelius Cotta*, the latter of whom received a great Overthrow from *Mithridates*.

ſuch was the Plan of their Operations, that the one was to fall upon *Mithridates*, and the other to cover *Bythinia*: But the Situation of the latter both by Sea and Land proved ſo miſerable, that it was a great Addition both to the Power and Glory of *Mithridates*; *Lucius Lucullus*, however, performed ſo many great Actions, that we have no War upon Hiſtory more important, or managed with greater Conduct and Courage. For when the whole collected Force of the War ſtood at the Walls of *Cyzicum*; when *Mithridates* imagined, that could he break thro' and demoliſh this City, which he thought to be the Gate of all *Aſia*; the whole Province would be quite laid open, *Lucullus* acted ſo effectually, that this City of our moſt faithful Allies was preſerved, and all the Troops of the King dwindled away by the Length of the Siege. But how! Do you imagine that the Sea-fight at *Tenedos* was a petty Engagement, and an inconſiderable Conflict; when the Enemy's Fleet with full Sail, and under the moſt fierce Leaders, 'fluſh'd with Hopes, and big with Expectations, was making for *Italy*? I will ſay nothing of the Battles, nor of the Sieges and Storms which happened. After the Monarch was driven from his Kingdom, ſo prevailing was his Addreſs and Authority, that being joined by

by the King of *Armenia*, he was reinforced by freſh Power, and other Troops.

WERE I now to touch upon the Actions of our Army, and General, I might enlarge upon many great Battles; but that is not my Buſineſs at preſent: However, I will venture to ſay, that if this War, this Enemy, and that Monarch had been deſpicable, the Senate and People of *Rome* never would have thought it needful to uſe ſuch Precaution in undertaking it; it never could have laſted ſo many Years; it never could have been ſo glorious for *L. Lucullus*; nor would the *Romans* have been ſo zealous to entruſt the finiſhing it to *Cn. Pompeius*. And, indeed, of all the innumerable Battles of this General, the moſt bloody, in my Opinion, was that with *Mithridates*, which was fought on both Sides with the greateſt Obſtinacy. Eſcaping from this Battle, that Monarch fled to *Boſphorus*, whither it was impoſſible for our Army to follow him; yet even in this loweſt Ebb of Fortune, nay, while he was flying, he ſtill preſerved the Reputation of a *Monarch*. Therefore after *Pompey* himſelf had ſeized the Kingdom, after driving his Enemy out of all his Territories, and from all his well known Haunts; ſuch was the Account he made of this one Man's Life, that though he poſſeſſed in right of Victory all that *Mithridates* held, attack'd or aſpired

aſpired to, yet he never concluded the War to be finiſhed, till he had driven *Mithridates* out of the World. Do you, *Cato*, deſpiſe as an Enemy, this Man whoſe Arms for ſo many Years fought ſo many Battles, and employed ſo many of our Generals? Whoſe Life, even in Expulſion and Exile, was held to be of ſuch Importance, that the War never was thought to be finiſhed, till the News came of his Death? It is in this War, I contend, that *L. Murena* acted as Lieutenant-General with a moſt undaunted Courage, the moſt conſummate Prudence, the moſt indefatigable Toil, and that thoſe Qualities have as much Dignity in them to recommend him to the Conſulate, as we are entitled to by all our Application in the *Forum*.

AYE, but *Servius* was firſt declared when he ſtood for the Prætorſhip. Will you go on dunning the People, as if you were dunning them upon a Note of their Hand;* That if they once give Precedency to a Man, he has a Right to the ſame in all his ſucceeding Offices? Do you think that the Waves of any Sea, or of *Euripus*

* *Note of their Hand.*] This is ſevere upon *Servius*'s Profeſſion as a Lawyer: The People, ſays our Author, in conferring Honours, are determined by their own Pleaſure and Generoſity, therefore they are not to be dunn'd for them, as you Lawyers would dun a Man upon his Note of Hand.

Euripus itſelf, is toſs'd and agitated with as violent and various Workings, as the Tumults and Tides that happen in a popular Election? One Day intermitted, or one Night intervening, often throws every Thing into Confuſion, and the ſmalleſt Whiſper of a Report frequently alters their whole Inclinations. We often meet with Diſappointments without any viſible Reaſon; and the People ſometimes ſtare at what is done, as if they themſelves had not done it.

NOTHING is more fickle than the Vulgar, nothing more dark than the Breaſt of Man, and nothing more deluſive than all the Buſineſs of Elections. Who could have thought that the wiſe, the diligent, the popular, and the noble *L. Philippus* could have been baffled by *M. Heremnius*? or *Q. Catulus*, ſo eminent for Humanity, Wiſdom and Integrity, by *Cn. Manlius*? or *M. Scaurus*, ſo reſpectable a Perſon, ſo worthy a Patriot, and ſo brave a Senator, by *Q. Maximus*? People were ſo far from expecting ſuch a Reverſe, that even after the Thing was over, they could not account by what Means it had happened. For though certain Conſtellations ſometimes occaſion Tempeſts; yet they often happen ſuddenly, without any viſible Reaſon, and from ſome unaccountable Cauſe. Thus it happens in the Tempeſts of popular Elections; you often underſtand

derſtand the Motive by which they riſe; but ſometimes they are ſo obſcure, that it ſeems to be owing to Chance.

BUT if we muſt give a Reaſon for it, two Things were exceedingly wanted in *Murena*'s Prætorſhip, which were of great Service to him when he was choſen Conſul. The firſt was, an Exhibition of Shews, the Expectation of which was ſwell'd by certain Reports, and induſtriouſly propagated by his Competitors: The other was, that they who had been Witneſſes to all his Liberality and Virtues, while he ſerv'd as Lieutenant in his Province, had not yet quitted the Province to come to *Rome*. Fortune preſerved both theſe for his Sollicitation of the Conſulate. For the Army of *L. Lucullus*, which was aſſembled for his Triumph, the ſame Army was then at *Rome*, and aſſiſted *Murena* in his Applications; and in his Prætorſhip he gave a moſt magnificent Exhibition of Shews, which were wanting when he was a Candidate. Were theſe in your Eyes ineffectual and trifling Helps to a Conſulſhip; I mean the Favour of the Army, an Army ſo powerful by their Numbers, ſo dear to their own Friends, and whoſe Votes have ſuch deciſive Authority with the whole People of *Rome* in declaring a Conſul? For Generals, and not Word-catchers, are the moſt ſucceſsful Candidates at a Conſular Election.

Election. What prevailing Eloquence is there in a Speech like this? *He relieved me when I was wounded; he enriched me with the Plunder of the Enemy; he was my General when we entered the Camp, and when we fought the Battle: He imposed no more Fatigue upon the meanest Soldier than he took to himself, and he is as* brave *as he is* fortunate.

How prevailing must this be to win the good Report, and the Good-will of Mankind! for if the religious Observances of those Elections are such, as that a powerful Omen is always drawn from the Prerogative Tribe,* are we to be surprised, that the Fame and the Talk of my Client's good Fortune had a decisive Influence upon this Occasion?

But if you account all those Considerations, weighty as they are, to be trifling, and prefer the Interest of Citizens to that of Soldiers, you surely will not venture to express any great Contempt for the Elegance of *Murena*'s Plays, and the Magnificence of his Scenery,† which did him so much Service. Need I put you in mind, that the People, and the unthinking Vulgar are captivated by those Plays? It is there-

* *Prerogative Tribe.*] This Tribe was chosen by Lot to preside at the Election, and if favourable to a Candidate was generally an Earnest of his Success.

† *Scenery.*] He brought a Scene upon the Stage which was all of beaten Silver. *Vid. Infra.*

fore the leſs Surprize. But this Obſervation is enough for my Purpoſe; for an Election is compoſed of the collective Body of the People. Therefore if the Magnificence of Plays is the Delight of the People, we are not to wonder that they recommended him to their Voices. But if we ourſelves, who are debarr'd from all Pleaſure, by the Hurry of our Buſineſs, and can have a great many other Amuſements, even while we are buſied, are however pleaſed and amuſed by Shews, can you be ſurprized at this in an illiterate Multitude?

My brave Friend, *L. Otho*, has reſtored the *Equeſtrian* Order not only to their Dignity, but to their Diverſions; and this makes the Law which regulates Plays the moſt agreeable of all others; becauſe this moſt worſhipful Order have hereby recovered both their Splendor of Rank, and the Advantage of their Pleaſures. Therefore take my Word for it, that not only they who confeſs, but they who diſſemble their being pleaſed with ſuch Amuſements, are delighted with them, as I myſelf experienced when I was a Candidate; for we too met with Oppoſition from the Stage. Therefore, if I who, when *Ædile* had thrice exhibited Plays, was alarmed by thoſe of *Antonius*; can you who happened to exhibit none, imagine, that this very Silver Scene exhibited by *Murena*, which you ſo much laugh at, was of no Prejudice to

your

your Cauſe? But ſuppoſe all theſe Circumſtances betwixt you were upon a Level; the Accompliſhments of the *Forum* to be equal to thoſe of the Field, the *Election Intereſt* of the Citizens equal to that of the Soldiers; nay, ſuppoſing it were the ſame Thing to give the moſt magnificent Shew, and no Shews at all; yet do you imagine that there were no difference betwixt your Allotments in the Exerciſe of the ſame Prætorſhip?

His Allotment was that which all of us, your Friends, wiſhed to have been yours; That of deciding Cauſes; an Allotment in which the Importance of the Charge conciliates Glory, and the Diſtribution of Equity, Popularity. It is an Allotment which gives a wiſe Prætor, ſuch as *Murena* was, an Opportunity of avoiding every Thing that is obnoxious, by the Equity of his Deciſions, and ingroſſing every Thing that is favourable, by the Gentleneſs of his Demeanor on the Bench. Such a Province was a noble Introduction to the Conſulate; a Province in which the Merits of his Equity, Integrity and Affability were crown'd by the engaging Exhibition of public Shews.

But what an Allotment was yours? Melancholy and ſour: An Enquiry into Imbezzlements; The one Side filled with Tears and Naſtineſs, the other with Chains and Evidences;

videnceſ; Juries preſs'd into the Service of the Public, and detain'd againſt their Inclinations; and the Order diſobliged for the Condemnation of one ſingle Scrivener their Brother; the Bounties of *Sylla* found Fault with; many brave Men, and almoſt half the City diſobliged; Coſts of Suit ſeverely tax'd; they who are pleaſed *forget*, and they who are vex'd *remember*. At laſt you refuſed to go to your Province. I cannot blame you for a Conduct which I myſelf approved of, both when Prætor and Conſul. But at the ſame Time the Province of *L. Murena* procured him a great deal of uſeful Popularity, with the faireſt of Characters. In his Journey thither, he made a Levy in *Umbria*, and here the Government gave him an Opportunity of diſplaying his Generoſity; by which Means he won over to his Intereſt a great many Tribes which are compoſed out of the Corporations of *Umbria*. When he arrived in Perſon in *Gaul*, ſuch was his Equity and Application, that he enabled our Collectors to recover a great many deſperate Debts. In the mean Time, to do you Juſtice, you was very ſerviceable to your Friends at *Rome*: But give me leave to put you in mind, that ſome People grow very cold in their Friendſhips towards thoſe who as they underſtand deſpiſe their Provinces.

HAVING

HAVING thus, my Lords, ſhewn that the Dignity of *Murena* and *Sulpicius*, as Candidates, was equal, but that the Allotment of their Provincial Buſineſs was very unequal; now I declare more plainly in what Circumſtances my Friend *Servius* was inferior to the other; and now that the Occaſion is over, I will tell in your Hearing what I have often told to himſelf in private, while the Election was depending. I have often told you, *Servius*, that you did not know how to go about a Sollicitation for the Conſulſhip, and even when you was managing thoſe Affairs, in which you ſpoke and acted with a generous and a noble Spirit, I uſed then to tell you, that, in my Opinion, you made rather a brave Senator, than a wiſe Candidate. In the firſt Place, the Terrors and Threats of an Impeachment, which you were every Day throwing out, prove you to be a brave Man; but at the ſame Time they alienated the Affections of the People from favouring your Hopes of Succeſs; and they weakened the Zeal of your Friends for your Intereſts. I cannot account how, but this is always the Caſe; I have now obſerved it not in one or two Inſtances, but in many, That as ſoon as a Candidate diſcovers any Diſpoſition to become an Impeacher, he is thought to deſpair of the Honour he aſpires to.

BUT how! Are we to put up with an Injury? Not for the World: But there is one Time for ſolliciting, and another for proſecuting. I would have a Candidate, eſpecially for the Conſulſhip, to be introduced into the *Forum*, and Field of an Election, with great Hopes, a great Spirit, and a great Party. I don't love that a Candidate ſhould be prying about for Evidence; it is the Fore-runner of a Repulſe; I don't love it when he is procuring *Witneſſes* inſtead of *Votes*, when he is *threatening* inſtead of *flattering*, when he is *making Declamations* inſtead of *paying Compliments*; eſpecially ſince it is now lately come into Faſhion for the Candidates to run about the Houſes of almoſt all their Electors, who are able to judge, by the Appearance they make, both of their Hopes and their Intereſts. Don't you ſee what a ſullen and ſneaking Air that Fellow has? Why, he is kick'd down; he deſponds; he is an arrant Coward. Immediately the Rumour ſteals round, What don't you know that he is hatching an Impeachment? That he is prying into the Conduct of his Competitors? That he is ſearching after Evidence? I'll be for another; for this Perſon has given up his own Cauſe. The neareſt Friends of ſuch Candidates are immediately damp'd. They loſe all their Zeal for what they

they had avowedly engaged, and either give up their Intereſt, or they reſerve all their Service and Influence for the Judgment and the Trial that is to enſue.

WE may add to this, that the Candidate himſelf cannot employ the whole of his Spirit, Care, Pains, and Application upon his Solli-citation; for his Mind runs likewiſe upon the Impeachment, which far from being a trifling Conſideration, is perhaps the moſt important of all others. For it is a very difficult Mat-ter for you to get ſuch Diſpoſitions, as that you ſhould be able to drive any Man out of his Country, eſpecially a Man who is neither deſtitute of Money or Intereſt; one who is defended by himſelf, by his Friends, nay, e-ven by Strangers: For we are all ready to run to repel Danger; and where no declared En-mity ſubſiſts, we perform the moſt friendly Offices and Duties to the meereſt Strangers, who are in Danger of a capital Puniſhment. Therefore, from my own Experience, I will tell you my Sentiments of the Difficulties of a Candidate, a Defender, and a Proſecutor. The Candidate requires indefatigable Applica-tion; the Defender, Attendance; and the Ac-cuſer, Laboriouſneſs. So that, in my Opi-nion, it is next to impoſſible for any Man to act the Part of an Accuſer, and a Candidate

for the Conſulſhip at the ſame Time, with tolerable Grace and Ability. Few People can ſupport either of theſe Characters; but no Man both. When you turn'd aſide out of the Career of a Candidate, and transferred your Thoughts to the Buſineſs of an Impeacher, did you imagine that you was capable of diſcharging both Duties? If you did, you was mightily miſtaken: For let me aſk you, whether, after you had openly profeſſed yourſelf an Impeacher, you had ever one Day that you did not ſpend entirely in that Buſineſs?

You dunn'd the Public for a Law againſt Bribery and Corruption, tho' at the ſame Time you had no Occaſion for it: For the *Calphurnian* Law * was very ſtrict upon this Head: A due Deference was ſhewn to your Deſire and Dignity. But the whole of that Law, which perhaps would have ſtrengthened your Accuſation, had the Defendant been guilty, diſappointed

* *Calphurnian Law.*] The Law againſt Corruption carried thro' by *C. Calphurnius Piſo*, though with great Oppoſition, was by him thought too mild, and therefore in *Cicero*'s Conſulate he had the Penalties of that Law increas'd. By this or ſome other Law he carried, it was enacted, that Plebeians offending againſt it ſhould be ſubject to a Mulct as well as Baniſhment; and Senators to Baniſhment as well as a Mulct. He likewiſe took away all Pretences of Abſence on account of Illneſs, but this Abſence ſeems only to have been in caſe the Party excuſing himſelf was impeached. The Commentators are not quite agreed as to that.

pointed your Solliciation.. You applied with great Earneſtneſs for a more ſevere Puniſhment upon the Commons; and the poorer Sort were alarmed. A Bill was brought to render our Order liable to Exile; the Senate granted your Requeſt, but it was with Difficulty that you brought them to multiply Pains and Penalties upon thoſe of a middling Fortune. A Puniſhment was annexed to all Excuſes of Illneſs: This gave great Diſguſt to many, who were obliged either to conſult their Intereſt at the Expence of their Health, or their Health at the Expence of their abandoning all the future Advantages of their Lives. Give me leave now to aſk you, who made the Motion for theſe Severities? The Man * who was determined to do ſo by the Authority of the Senate, and by your Commands. In ſhort, the Man who was to reap the leaſt Advantage from them. Do you imagine that you was put under a ſlight Inconvenience by your Zeal for that Act, which the Senate in a full Houſe rejected to my great Satisfaction? You ſtruggled hard to introduce a Confuſion of Votes, a Suſpenſion of the *Manilian* Law, the putting all popular Intereſt,† Dignity and Election upon

* *The Man.*] *Cicero* means himſelf.

† *Putting all popular Intereſt.*] I have already taken notice of the great Advantage which the Diſtribution of the People into Centuries gave to Men of Property in *Rome*; an Alteration of the Manner of voting ſeems to have

upon a Level. Men of Conſideration and Intereſt in their own Cities and Corporations were extremely diſguſted, that a Perſon of your Weight ſhould ſtruggle for the aboliſhing all Degrees of Dignity and Favour. You likewiſe was for *ſpecial Commiſſions of Inqueſt*,* that the ſecret Rancour of Citizens, which is now confined within the Bounds of ſilent Averſion, ſhould break out againſt the Fortunes of every worthy Patriot.

ALL thoſe Regulations opened your Way to Succeſs as an Impeacher, but barr'd it up as a Candidate. And I told you again and again, that this was the greateſt Blow ever given to your Intereſts as a Candidate. The ingenious and the eloquent *Hortenſius*, has already talk'd to this Point very fully and ſolidly: Therefore the Province of ſpeaking that falls to my Share is the more difficult, ſince both *Hortenſius* and *Marcus Craſſus*, a Perſon of the greateſt Dignity,

have been what *Cicero* ſpeaks of, and that *Sulpicius* got a Law, that the Votes of all the Centuries ſhould be gathered indiſcriminately, ſo as that the Candidate ſhould not know which Century was for, or which againſt him. It would ſeem as if there had been a Law of one *Manlius* to this Purpoſe, and that was abrogated, but now reſtored by *Sulpicius*.

* *Special Commiſſions of Inqueſt.*] *Lat. Edititios Judices.* Theſe were ſuch a Jury as the Proſecutor was pleaſed to impannel, without the Defendant having it in his Power to challenge any of them. See the Oration for *Plancius*, where the whole Affair is canvaſſed. If this Allegation is true that *Cicero* brings here, it was a very villainous Action of *Sulpicius*.

nity, Application and Eloquence, I have already ſpoken on this Head; and thus I am left not to plead to any Part of the Merits of the Cauſe, but to tell my Opinion upon the whole of the Matter. Therefore I muſt both ſpeak almoſt to the ſame Heads with them, and anticipate your Judgment,* which is all, my Lords, I can do.

WHAT a mortal Blow, *Sulpicius*, did you give to your Pretenſions, when you gave the *Roman* People alarming Reaſons to apprehend that *Catiline* would be Conſul, while you dropt your Sollicitation, and was buſied in preparing an Impeachment? They obſerved you with a thoughtful Air collecting Evidence. They took Notice of the Concern of your Friends, their prying, their Affidavits, their cloſeting Witneſſes, the caballing of Solicitors; all which, no doubt, throw a Gloom upon the Looks of Candidates. In the mean Time, they ſaw *Catiline* gay and chearful, attended by a Circle of young Gentlemen, encompaſſed by Informers and Aſſaſſins, fluſh'd with his Hopes in the Soldiery, and, as he pretended, with the Promiſes of my Collegue, while a whole Army

* *Anticipate your Judgment.*] There is a double Reading here; *occurro veſtræ ſapientiæ, & occurro veſtræ ſatitati*, which laſt is *Hottoman*'s Reading, and I ſhould prefer it, were it warranted from good Manuſcripts. The Tranſlation would then be, *All I can do, my Lords, is to keep your Attention awake.*

Army of *Arretine* and *Fæſulan* Plunderers were ſwarming round him: A very motly Crowd! but thoſe who were ſtruck with the Thoughts of the public Calamity in *Sylla*'s Time, made the greateſt Figure in it. The Countenance of *Catiline* himſelf was full of Fury, his Eyes of Guilt, and his Language of Arrogance; ſo that he ſeemed to have made himſelf ſo ſure of the Conſulate, as if he had it locked up in his own Houſe. He deſpiſed *Murena*, and looked upon *Sulpicius* not as his Competitor but his Proſecutor; he threatened Violence to him, and Deſtruction to his Country.

I NEED not put you in mind with what a Dread all this ſtruck every Man of Virtue, and how deſperate the Condition of the Public appeared. You may recollect this within yourſelves: For you have not forgot the Language* which that infamous Gladiator is ſaid to have uſed in a Meeting at his own Houſe, when he affirmed, "That it was impoſſible for the "Wretched to find a faithful Protector, but in "the

* *The Language.*] It is ſurprizing that this Quotation which our *very candid diſintereſted Author* gives us from *Catiline*'s Speech is not to be found in *Salluſt*. I will make no other Remark upon it, than that the Language he uſes here was very natural to a Man in *Catiline*'s Circumſtances; and if the Senate and Nobles had at that Time inſolently ſtooped upon the Liberties, and engroſs'd the Properties of their Fellow-Citizens, very juſtifiable.

" the Perſon of one as wretched as themſelves,
" and that the Afflicted and Miſerable ought
" never to truſt to the Promiſes of the Sound
" and the Happy. But, therefore, they who
" are willing to repleniſh what they had ſpent,
" and recover what they had been robbed of,
" ought only to conſider how much he owed,
" how much he poſſeſſed, and what he dared
" to do. That the Man who aſpired to be a
" Leader of the Unhappy, ought to have very
" little Fear, but a great deal of Miſery."

WHEN theſe Accounts were publiſhed, you may remember that upon my Motion a Decree of the Senate was made to adjourn the Elections appointed for next Day, that we might conſider in the Senate how we ſhould act upon ſuch an Occaſion. Wherefore next Day, in a full Senate, I called upon *Catiline*, and commanded him to make what Defence he could as to thoſe Facts which I had been informed of. As he was always very frank, he did not pretend to deny them, but owned and juſtified the Charge. He then told us, " That
" the State had two Bodies, one ſickly, with a
" weak Head; the other ſound, but without
" any Head at all; and that the latter, while
" he was alive, ſhould not be without a Head,
" ſince he was ſo much obliged to that Body."
The Senate fully aſſembled was heard to groan, but without coming to any Reſolutions

equal

equal to the Severity which his Insolence deserved;* for one half thought it needless to come to any vigorous Resolutions, because they *were not afraid*; the other half *durst not*, because *they were afraid*. He then broke out of the Senate with a triumphant Joy, though it was absolutely improper he should have ever gone out of it alive; especially, since but a few Days before, when the brave *Cato*, in the same Assembly, was threatening and declaring that he should be brought to Justice, he answered, that if any Combustion happened in his Fortunes, he would extinguish it not with Water, but with Ruin.

BEING alarmed by all these Circumstances, and knowing that *Catiline* was bringing down his Conspirators in Arms to the Field of Election, I came to that same Spot, with a very strong Guard of brave Men, cloathed as I was, in that broad remarkable Mail, which I did not wear that it might defend me (for I well knew, that *Catiline* generally struck at the Neck and the Head, not at the Side or the Belly)

* *His Insolence deserved.*] What Insolence? In all the Charges against *Catiline*, in all the Fury of Declamation, which great Men in all Ages have unanimously indulged themselves in, I wish any of them had so much as attempted to prove, that the Nobles and Senate had not by their Attacks and Violations of the very first Principles of the *Roman* Constitution, given *Catiline*'s Followers such Grounds of conspiring against them, as might have entitled them to much softer Epithets than they have met with;—I mean *if they had succeeded*.

Belly) but to alarm all worthy Patriots, that upon ſeeing the Conſternation and Danger of their Conſul, they might flock to aſſiſt and protect me, which they accordingly did. Therefore, *Servius*, as the Public thought that you was negligent in your Sollicitations as a Candidate, and ſaw *Catiline* fluſh'd with Hopes and Ambition, every Man who wiſh'd to repel that Plague from his Country, immediately reſorted to *Murena*.

AT Conſular Elections the ſudden Turn of popular Favour is very ſtrong, eſpecially as its Biaſs then leaned towards a worthy Man, and one accompliſh'd in many other Merits that could recommend him as a Candidate; a Man with the Advantages of a moſt reputable Father and Family, who in his Youth behaved with the moſt amiable Modeſty; and was employed in a moſt illuſtrious Deputation; one who had diſcharged his Prætorſhip with Ability in the Exerciſe of Judgment, with Popularity in the Exhibition of his Shews, and with Politeneſs in the Government of his Province, ſued for it with great Application, and in ſuch a Manner, that he was daunted by no Menaces, and incapable of uſing Menaces to others. Is it, I ſay, a Surprize, that ſuch a Man ſhould be ſtrongly aſſiſted in his Sollicitations, by the ſudden Hopes which *Catiline* had of obtaining the Conſulate?

Now I muſt reſume the third Head of my Pleading, which relates to the Crimes of Bribery and Corruption, in order to pleaſe *Murena*: Although this Charge has been ſufficiently cleared up by the Gentlemen who have ſpoken before me on the ſame Side. Upon this Head, I will do my beſt to anſwer what has been ſaid by my accompliſhed Friend *Poſthumius*, with regard to the Diſcoveries made of Money depoſited and ſeized in the Hand of Truſtees, who were to parcel it out amongſt the People; by the ingenious *Servius Sulpicius* with regard to the Equeſtrian Centuries, and by *M. Cato*, a Man diſtinguiſhed by every Virtue, concerning his own Accuſation, the Decree of the Senate, and the Affairs of the Government. But give me Leave to premiſe ſomewhat by way of Complaint, which has made a ſudden Impreſſion upon me, ariſing from the Situation of *L. Murena*. For, my Lords, I have often before this Time, upon reflecting on the Miſeries of others and my own daily Toils and Labours, thought thoſe Men happy, who at a Diſtance from the Purſuits of Ambition, indulged the Repoſe and Tranquility of Life. But now that *L. Murena* is beſet with ſuch, and ſo many unexpected Dangers, I am ſo ſtruck with Concern, that I want Words to bemoan the common Lot of us all,

all, as well as the Accidents and Misfortunes that have happened to my Client; who upon his very firſt Attempt to mount one Step above thoſe Honours which had been long uninterruptedly in his Family, and enjoyed by his Anceſtors, is now in Danger of loſing both what was left him by them, and the Additions made to them by himſelf. In the next Place, his Purſuit after new Honours has endangered his forfeiting his former Eſtate.

THE Bitterneſs of theſe Miſeries, my Lords, are highly aggravated by his Proſecutors not being prompted to this Impeachment by any Motives of perſonal Reſentment, but have fallen into perſonal Reſentment from their Zeal for Impeaching. For not to mention *Servius Sulpicius*, who I underſtand has no perſonal Pique at *Murena*, but is prompted by this Diſpute about Preference, he is impeached by *Cn. Poſthumius* his Father's Friend, and, as he owns himſelf, his own Neighbour and Acquaintance; this Gentleman hath ſhewed you many Reaſons why he ſhould befriend *Murena*, but was not able to mention one, why he ſhould hate *Murena*. He is accuſed by *Servius Sulpicius* the Companion of his Son, whoſe good Qualities ought to be a kind of Protection for the Friends of his Father. He is impeached by *M. Cato*, who, though he never ſhewed any particular Diſlike to *Mu-*

rena, ſeems to have been born in this State, with this Condition annexed to his Exiſtence, that his Intereſt and Abilities ſhould relieve many, even the meereſt Strangers, without ruining hardly any one Enemy.

THEREFORE I ſhall firſt anſwer *Poſthumius*, who, I know not by what Means, ſeems to me, though he ſtands for the Prætorſhip, to run full againſt a Conſul,* like one who profeſſes to vault on Horſeback, yet gets into the Seat of a Chariot. He has yielded to their Dignity, if they have been no way in fault, by dropping his Pretenſions; but if any of them has bribed, a Friend is wanted to proſecute a third Perſon's Wrongs rather than his own. * * * * * * * * * * *

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[*A Chaſm here.*†]

I NOW proceed to *M. Cato*, who is the Support and Strength of all this Impeachment; but however weighty and keen he is in his Im-

* *To run full againſt a Conſul.*] Orig. *Pretorius Candidatus in Conſularem, quaſi deſultarius in quadrigarum curriculum incurrere.* This Metaphor is taken from the Dexterity of thoſe who at Chariot Races could vault off a Horſeback into a Chariot with four Horſes; *Cicero* compares *Poſthumius* to one of thoſe, ſince he left his Profeſſion as Candidate for the Prætorſhip, to become the Impeacher of a Conſul.

† *Chaſm.*] What is wanting here contained probably an Anſwer to what had been urged by *Poſthumius* in Support of the Impeachment.

peachment, I dread the Effect of his Authority much more than the Weight of his Charge: And first, my Lords, as to this Impeacher, let me beg the Court, that neither the Dignity of his Perſon, his Proſpect of the Tribuneſhip, nor the Luſtre and Wiſdom of his whole Character may be of any Prejudice to my Client; and in the next Place, that *Murena* may not be a ſingle Inſtance, that he ſuffered by theſe good Qualities with which *Cato* is bleſt, that it may be in his Power to *bleſs* Mankind. *Publius Africanus* had been twice Conſul, and had demoliſhed *Carthage* and *Numantia*, thoſe two formidable Rivals of *Rome*, when he accuſed *L. Cotta*. He was poſſeſſed of the greateſt Eloquence, Honour, and Integrity, and his Authority was adequate to the Dignity of the *Roman* Empire, ſupported by his Services. I have often heard old People ſay, that the exalted Dignity of this Impeacher was of great Service to *L. Cotta*: For as the Judges in that Trial were Men of conſummate Wiſdom, they were unwilling that the Impeach'd ſhould fall, as if he had been ſtruck down by the overbearing Force of his Antagoniſt. But how! Did not the *Roman* People reſcue *Sergius Galba*, as the Story goes, from *M. Cato*, your brave and eminent Great-Grandfather, who was bent upon his Deſtruction? In this State, both the Body of

the People, and thoſe wiſe Patriots who conſulted the Happineſs of Poſterity, have always diſcouraged Proſecutions carried on by too powerful an Intereſt. I am not for an Impeacher bringing into the Court too decisive a Power, too overbearing an Intereſt, too great an Evidence of Authority, or too extenſive an Influence of Popularity. Let him employ theſe great Qualities in ſaving the Innocent, in ſuccouring the Helpleſs, in relieving the Wretched, but let them be diſregarded when employed to the Danger and Deſtruction of our Fellow Citizens. For if it ſhould be ſaid that *Cato* never would have ſtooped to the Character of an *Accuſer*, without firſt examining as a *Judge* into the Legality of the Proſecution, give me leave to ſay, my Lords, that unjuſt muſt be the Sentence, and unhappy the Situation of the Impeach'd, if the Judgment form'd by the Proſecutor ſhould be ſuſtained as a Preſumption in Favour of the Proſecution.

So ſtrongly, *Cato*, am I prepoſſeſſed with the Opinion of your matchleſs Virtues, that I dare not diſparage your Conduct; in ſome reſpect I might wiſh it a ſlight poliſh, and a finiſhing Touch. Says the great Monitor * to his brave Pupil, *You are not wrong in many Things, but if*

* *Says the great Monitor.*] All this Paſſage is extremely delicate. He either means *Chiron*, who was *Achilles*'s Preceptor, or *Phœnix* who was his Tutor.

if you were, I could ſet you right; but I can ſay with great Truth of *you*, that *you* are faultleſs, and that on all Occaſions you require rather a gentle Hint than Reformation: For Nature herſelf has form'd you great and eminent; ſhe has moulded you to Honour, Wiſdom, Temperance, Magnanimity, Juſtice; in ſhort, to every Virtue. You have added to theſe Learning, but a Learning that is neither tractable nor good-natured; becauſe it is a little too rough and ſevere for the Practice of common Life, or the Diſpoſition of human Nature.

AND becauſe I am not now ſpeaking either before an unexperienced Multitude, or an Aſſembly of Ruſtics, give me Leave to be a little more explicit upon the Studies of moral Duties, which are well known and dear both to you and me. You are to attribute the eminent and divine Qualities, my Lords, which we diſcern in *M. Cato*, to Nature, but that he has ſome ſlight Defects, is owing, not to Nature, but to Education. For *Zeno* was a Man of great Genius, and his Inſtitutes were adopted by the Stoicks. His Sentiments and Rules are as follow, That a wiſe Man is never to be influenced by Favour; he is never to pardon a Fault in any Perſon; That Fools and the Irreſolute only have ever any Sentiments of Pity; That a right Man is both inexorable and implacable; That the Wiſe, let them

have a thouſand Deformities, are the only Beauties in the World; let them be made Beggars, yet they are wealthy; let them be the meaneſt of Slaves, yet they are Kings; but that we who are not endued with Wiſdom, are Fugitives, Exiles, Enemies; in ſhort, *we are all mad.* They tell us, that all Miſdemeanors are alike, and that every Slip is a mortal Sin. And that a Man who ſhall ſmother a Pullet, when he needs not do it, is as criminal as if a Man ſhould ſmother his Father. That a wiſe Man had never any Doubt within his own Breaſt; that he never repents what he does; that he is never fallible, and that he never alters his way of thinking: Theſe are the Principles which the ingenious *M. Cato* has ſnatched from theſe learned Authors, not as mere Matters of Argument, as is often the Caſe, but to ſerve him as his Rules of living. Our Farmers of the Revenue petition for ſome Abatements; Take care that you are not influenced by one Grain of Favour. Behold ſome People in Diſtreſs and Affliction beg in the humbleſt Manner; You are a Villain and a Raſcal, if you do the leaſt Thing from any Sentiment of Compaſſion. Another Perſon comes to own himſelf in the Wrong, and is ſorry for his Fault; to pardon him would be a Crime of the deepeſt dye. But the Miſtake was but trifling. That won't do, for all Faults

are

are alike. Have you dropp'd any Expreſſion? Let it be firm and irrevocable. You don't give ſuch a Thing as Matter of Fact, but Opinion. Wiſe Men never entertain Opinions. You are a little miſtaken in a Fact; he thinks that that is a very bad Plea. The Effects of this Doctrine are as follow.—I ſaid in the Senate, that I would impeach a Conſular Candidate; but you was in a Paſſion when you ſaid ſo.—No, ſays he, a wiſe Man is never in a Paſſion. But you ſpoke it to ſerve a Turn.—Then I ſhould be a Rogue if I made a Lie.—For a Man to alter his Sentiments is ſhameful, to be exorable is criminal, and to be compaſſionate is ſcandalous.

For my own Part, *Cato*, I own, when I was young, that I was ſo diſtruſtful of my own Capacity, that I too ſought Aſſiſtance from Learning; for *my* Maſters, I mean the cool, moderate Followers of *Plato* and *Ariſtotle*, tell me, that a wiſe Man is ſometimes influenced by Favour, and that a good Man is ſuſceptible of Compaſſion; that Faults differ in their own Nature, and therefore ought to do ſo in their Puniſhment; that a Man of Reſolution will ſtill reſerve Room for Pardon; and that the Sage himſelf, when he is ignorant, is a little diſtruſtful: That he is ſometimes put into a Paſſion, but that he may be calmed and appeaſed: That he will alter what he has once ſaid, if he ſhall

find he can do it for the better; that he ſometimes yields a little in his own Reſolutions; and that all Virtues are tempered by a certain Mediocrity.

HAD you, *Cato*, with thoſe Excellencies of natural Qualifications, happened to apply to ſuch Maſters as thoſe, you would not indeed have been a better nor a braver, nor a more temperate, nor a more juſt Man, (for all that would have been impoſſible) but you would have been a little more inclinable to Gentleneſs. You would not without the leaſt Motive from perſonal Reſentment, or the ſmalleſt Provocation from perſonal Injuries, have accuſed the moſt modeſt Man upon Earth, and one endowed with the higheſt Dignity and Honour. You would have imagined, as Fortune had made you both Magiſtrates elect, for the ſame Year, that you were in ſome Sort politically related to one another: And as for the Invectives you threw out in the Senate, you would either have ſuppreſſed them, or you would have put upon them the moſt favourable Conſtruction.

BUT ſo far as I can form any Judgment, Experience will *molify*, Events will *ſoften*, and Age will *bend* that Impetuoſity of Spirit, that elaſtic Force of Nature, and a Genius now warm from the recent Impreſſion of the Schools. For in my Opinion, your Teachers

and

and your Profeſſors of Morality ſtretch the moral Duties farther than human Nature can admit. For when we have carried them in Speculation to even the higheſt Pitch, yet ſtill we ought to be determined by prudential Conſiderations, where we ſhall reſt. You will pardon *nothing*: I don't think you ſhould *every Thing*. You will do nothing through *Favour*; neither ſhould you, when you are called upon by your Duty and Honour. Don't let Compaſſion have the leaſt Place in your Mind, no not in loſing your Character for Gravity; but ſtill there is ſome Merit in Sentiments of Humanity. Perſevere in your Reſolution; Yes, unleſs that Reſolution ſhould give way to a better.

SUCH were the Sentiments of the great *Scipio*, who was not aſhamed of doing the ſame that you do now; he kept in his Houſe a Man of Learning ſo profound that he approach'd to Divinity, yet *Scipio* was ſo far from being rendered untractable by his Converſation and Precepts, though they were the ſame with thoſe that you are now ſo fond of, that I have been told by old Men, he was Gentleneſs itſelf. Who was more affable, or who more agreeable than *C. Lælius*, though he embraced the ſame Philoſophy; at the ſame Time, was there a Man of more Weight and Wiſdom than he? I might extend theſe Obſervations

to

to *L. Philippus* and *C. Gallus*, but let me now lead you into your own Family; do you imagine that your Great-Grandfather *Cato* was ever out-done in Politeneſs, in Affability, in Moderation, or in the Practice of the moſt extenſive Humanity? While you was ſpeaking with great Weight and Truth as to his eminent Virtues, you ſaid that you had a Family-Model for your Conduct; he is indeed a beautiful Model; but though you, you who are deſcended of him, may be more ſimilar to his Genius than any of us, yet ſtill he is an Object proper for my Imitation as well as yours. But were you to temper your *Gravity* and *Severity* with his *Politeneſs* and *Affability*, Virtues which are already perfect could indeed receive no farther Degree of Excellence, yet give me leave to ſay, they would have a more delightful Reliſh.

BUT to return to what I propoſed; away with the Name of *Cato* from this Diſpute; away with all Authority which in a Court of Juſtice ought to have no other Influence but to ſave. Join Iſſue with me upon the Crimes themſelves; what is your Charge, *Cato*? What is to be tried? What do you offer Evidence of? Do you impeach Corruption? I do not defend it. Do you blame me for defending by my *Pleading* what I puniſhed by *Law*? I anſwer, that I puniſhed Corruption and not Innocence;

nocence; as to Corruption, if you pleaſe, I will go Hand in Hand with yourſelf in impeaching it. You have ſaid that a Decree of the Senate was made upon my Motion againſt the Corrupted who ſhould meet the Candidates; againſt their paying Money for Attendance on their Perſons; againſt the allotting Seats to the Populace by Tribes at the Shews of Gladiators, and againſt giving Entertainments to the Mob, and that all theſe appeared to be againſt the *Calphurnian* Law; the Senate therefore judged, that if thoſe Things are proved, they are Violations of that Law, and decrees what there is no Occaſion for, only to oblige the Candidates. For it is a very ſtrong Queſtion whether the Fact was ſo or not; if it was, there is no Manner of doubt, that the Law was violated. It is therefore ridiculous to leave that which is doubtful without a thorough Examination, and to try a Point that can admit of no Doubt. But it was at the Inſtances of all the Candidates that this was decreed, that it might never be underſtood who were to be Gainers, and who were to be Sufferers by this Decree of the Senate. Therefore you are to prove that *L. Murena* was guilty of theſe Overt-acts, and then I will admit that they are contrary to the expreſs Meaning of the Law.

You alledged that a great many People met him,

him, when he returned from his Province to ſtand for the Conſulſhip. This is very common; happens it not to every Man who is on his Return home? Who were thoſe Numbers that met him? In the firſt Place, if I cannot ſatisfy you as to that, is there any Wonder that a great many went to meet ſo diſtinguiſhed a Perſon, and a Conſular Candidate upon his Approach to the City? It would have been much more ſurprizing if they had done otherwiſe: But ſuppoſing now I ſhould add what is not unuſual, that a great many were invited? Is there any Matter either of Guilt or Surprize, that in a City, where, upon Invitation, we uſe to introduce, even before Day, and from the moſt remote Parts of the City, the Sons of our meaneſt Fellow Citizens, that People ſhould not think it any Trouble to go to the *Campus Martius*, by nine of the Clock,* eſpecially when they were invited in the Name of ſo illuſtrious a Perſon: But what if all the Companies came, and amongſt theſe a great many of the Judges who ſit upon this Trial? What if a great many of our right worſhipful Order; what if the whole Clan of Candidates, who

* *Nine of the Clock.*] Orig. *Hora tertia*, which, as near as we can gueſs, anſwered to our nine of the Clock in the Morning. It was looked upon as a great Advantage to a Candidate when his Party got firſt Poſſeſſion of the Field of Election.

who are ſuch ſcrupulous Obſervers of their Duties, that they will ſuffer no Man to enter the City but in due Form? In ſhort, if even our Proſecutor *Poſthumius* came to meet us with a pretty large Retinue of his own, why ſhould this Multitude occaſion any Surprize? I ſhall not mention his Clients, his Neighbours, thoſe of the ſame Tribe, with the whole Army of *Lucullus*, who was at that Time come to *Rome* upon Account of his Triumph. I would take it upon me to ſay, that ſuch an uninfluenced Number of Attendants upon ſuch an Occaſion was never wanting to a Man of Dignity; nay, to one who requires it. But he had a vaſt Attendance; then prove them to have been hired, I then ſhall admit him to be culpable. But if you do not prove *that*, what do you find fault with? But where was the Occaſion, ſays our Adverſary, for ſuch an Attendance? Do *you* aſk *me* what Occaſion there is for a common Practice, which all of us have uſed for Time immemorial? Men of little Conſideration have no other Method of either deſerving or acknowledging the Favour of our Order, but by this Aſſiduity and Attendance while we are Candidates for public Offices; for it is impoſſible, nor is it to be required of us, and the *Roman* Knights, that we ſhould follow our Friends who ſtand for public Offices, for Days together. If they reſort to our Houſes, if they ſome-

ſometimes conduct us to the *Forum*, if they pay their Reſpects to us for the Length of a Street,* we appear to be ſufficiently reſpected and honoured; all that cloſe Attendance is paid by ſuch of our Friends who have ſlender Fortunes, and not much Buſineſs on their Hands; and Men of Worth and Generoſity will never want Plenty of ſuch to attend them.

THEREFORE, *Cato*, do not deprive this low Rank of Mankind of the Benefits of their Services; ſuffer them, ſince they hope every Thing from us, to be in a Capacity of paying us ſomewhat in return: Were this confined to their Votes alone, it would be next to nothing, as they get no Favour by voting.† In ſhort, as they themſelves uſe to tell us, they cannot plead for us, they cannot anſwer for us in Court, they cannot invite us to their Houſes; all theſe are Services which they expect of us, and they think that their Aſſiduity is the only Way by which they can repay us for all our Favours: Therefore they oppoſed both the *Fabian* Law which regulated the Number of Attendants upon a Candidate, and the Decree of the Senate, which was made in the Conſulate of *L. Cæſar*;

* *Length of a Street.*] Orig. *Baſilicæ ſpatio*, the Length of a Piazza.

† *As they get no Favour by voting.*] *Si, ut ſuffragantur nihil valent gratio. Cicero* in many other Paſſages uſes the Particle *ſi* for *cum*, and not attending to this appears to have led *Manutius* to think that this Paſſage was ſuperfluous.

Cæſar; for no Penalty can ever be ſufficient to debar the meaner Rank of People from performing this old Syſtem of paying their Duties.

AYE, but Entertainments of Shews were exhibited to the particular Tribes; and the Mob was invited to a Dinner. Though, my Lords, this was not the doing of *Murena*, but of his Friends, and that too with Moderation, and according to Cuſtom, yet I have Reaſon to remember, *Servius*, how many Votes * we loſt by making ſuch Enquiries in the Senate; for in what Time, either in our own or of our Father's Memories, did not Ambition, or call it Liberality, allot a Place in the *Circus* and the *Forum*, to thoſe who were of the ſame Tribe with ourſelves. This was an Uſage begun by the moſt inconſiderable of the People and continued. *

There is a Chaſm here.

IF the Maſter of the Artizans once allotted a Place for his own Tribe, what Regulations would they make againſt Men of the firſt Quality who hired whole Ranges of Booths in the *Circus* for the Uſe of their own Tribe? All

* *How many Votes.*] Orig. *Quantum punctorum.* The Number of Voters were prick'd down; hence a Vote is called a *Punctum.* Hor. *Omne tulit punctum*, He has every Man's Vote.

All theſe Charges, *Servius*, with regard to Retinue, Shews, and even Entertainments, are attributed by the Populace to your ſcrupulous Exactneſs in collecting Matter for this Impeachment; and yet *Murena* is defended by the Authority of the Senate upon all thoſe Heads. To be ſure: For give me leave to aſk, if ever the Senate would think it criminal for a Perſon to be met on his Return home? No, unleſs he hires People for that Purpoſe; but prove this upon my Client. Is it criminal for one to be attended by a great Multitude? Not unleſs he hires them. Then prove *Murena* did. Is it illegal to give Places at a Shew, or to invite People to Dinner? By no Means; unleſs this is done indiſcriminately. What do you call doing it *indiſcriminately?* When it comprehends the whole of the People. Therefore if *L. Natta*,* a Youth of the greateſt Quality, and who has given Proofs already, by his Capacity, of the great Things the World has Reaſon to expect of him, in order to recommend himſelf to their Favour upon this friendly Occaſion, and for the reſt of his Life, had a Mind to be in the Centuries of the Knights, muſt this be a Prejudice, or charged as a Crime upon his Step-father? Or if a Veſtal Virgin,

* *L. Natta.*] He was Step-Son to *Murena*, and condeſcended thus low to favour his Step-Father's Solliciations.

Virgin, who was his Relation and a Friend, reſigned to him her Place at a Show of the Gladiators, ſhe acted as an affectionate Kinſwoman and he ought to be free from the leaſt Cenſure. All theſe Offices are the Duties of Friends, the Perquiſites of Inferiors, and Privileges of Candidates.

BUT *Cato* diſputes with me in the Character of an auſtere Stoick; he tells you it is unjuſt that Favour ſhould be courted by Meat or Drink, and that Votes at an Election of Magiſtrates ſhould be influenced by Motives of Pleaſure: Therefore if a Man, becauſe he is a Candidate, ſhall invite another to Supper, he muſt be condemned. What, ſays he, do you ſtand for the higheſt Command, for ſupreme Authority, and for the Helm of the State, by pampering the Senſes, by ſoothing the Inclinations, and gratifying the Pleaſures of Mankind? One ſhould be in doubt, continues he, whether you aſpired to be the Cock-bawd of a delicate Parcel of Youths, or to obtain the Command of the World from the People of *Rome*. This is an awful Speech; but it is condemned by our Practice, by our Lives, and by our Conſtitution itſelf. For neither the *Lacædemonians*, the firſt Inſtitutors of ſuch a way of Living and Talking, Men who every Day dine upon a hard Board; nor the *Cretans*, not one of whom ever indulged himſelf in a cumbent Poſture at his

Meals; I ſay, neither of theſe People have been more ſucceſsful in the Adminiſtration of public Affairs, than the *Romans* who have Times ſet apart for Fatigue, and Times for Pleaſure. As to the *Cretans*, they were deſtroyed by a ſingle Approach of our Army, and it is under the Protection of our Empire, that the *Lacædemonians* enjoy their ancient Regulations and Conſtitutions.

THEREFORE, *Cato*, be not too ſevere upon theſe Cuſtoms of our Anceſtors, the Fitneſs of which is proved by the preſent State of our Affairs, and the long Continuance of our Empire. *Quintus Tubero*, a Man of Learning in the Days of our Forefathers, and at the ſame Time a Perſon of Conſideration and Quality, was a Stoick as you are. When *Q. Maximus* was giving an Entertainment to the *Roman* People, on the Account of his Uncle *Africanus*, *Tubero* was deſired by him, becauſe he was Son to the Siſter of *Africanus*, to furniſh out a Dining-Room. What does this learned Stoick do, but cover plain wooden Beds with coarſe Goats-Skins, and ſet out a Side-board of Earthen Diſhes; as if they had been commemorating the Death of *Diogenes* the Cynic, and not that of *Africanus*: A Man ſo divine, that while *Maximus* was pronouncing his Funeral Praiſes, he thanked the immortal Gods, that ſuch a Hero was a Native of this State,

becauſe

becauſe the Empire of the World muſt have been fixed in whatever Place ſuch a Man exiſted. But this wrong-headed Wiſdom of *Tubero* was extreamly diſagreeable to the *Roman* People upon that Occaſion; therefore that excellent Perſon, and worthy *Roman*, though he was Grandſon to *L. Paulus*, and Son to the Siſter of *Africanus*, was toſſed in thoſe Goats-Skins out of the Prætorſhip.

THE People of *Rome* are Foes to *private Luxury*, but Friends to *public Magnificence*; they don't love *Profuſion*, but far leſs a *brutiſh Naſtineſs in Entertainments*; they know how to make proper Diſtinctions, both as to Duties and Seaſons; they know when to labour, and when to indulge. But if you maintain that our Fellow Citizens ought to have no other Motive for voting a Man into a public Poſt, but the Dignity of the Candidate himſelf, you yourſelf, great as your Dignity is, do not obſerve this Maxim, elſe why do you aſk any one to favour or to aſſiſt you? You yourſelf requeſted that I might be directed by, and commit myſelf to you; what Meaning was there in this? Whether was it more proper that I ſhould be ſollicited by you, or you by me, to undertake Toil and Dangers for my Welfare?

To what Purpoſe had you a Promp-

ter * of Citizens Names? *Here*, at leaſt, you deceive and impoſe upon the Public; for if it was a moral Duty for you to call every Citizen by his Name, it ſurely is ſcandalous that your Slave ſhould be better acquainted with their Names than you are; but if you are acquainted with them, is it neceſſary to apply to them by a Prompter? Why do you ſollicit before he whiſpers? Or why, after you are told their Names, do you ſalute them as if you were already acquainted with them? After you was nominated to your Office, why did you accoſt them with greater Indifference than before? All theſe Practices are right, according to the Uſages of this City, but they will be found extremely wrong, if examined by the Maxims of your Philoſophy. Therefore the *Roman* People are neither to be deprived of the Pleaſures of thoſe Plays, Gladiator Shews, and Entertainments, Things which have been provided for us by our Anceſtors; nor are the Candidates to be debarred from beſtowing thoſe Favours which are rather Marks of *Generoſity* than *Corruption*.

BUT, ſay you, *your* PATRIOTISM *obliged you to impeach*. I believe, *Cato*, that this is your

* *Prompter.*] This Perſon was called a Nomenclator, and attended Candidates to Whiſper the Names of Citizens to them as they went up to take them by the Hand.

your Motive and Reaſon for appearing here; but you are miſtaken for want of ſufficient Reflection. As for what I do, my Lords, I proteſt and declare I do it on account of my Friendſhip for *Murena* and his own Dignity, and likewiſe for the Peace, Eaſe, Unanimity, Liberty, Safety; and, in ſhort, the Preſervation of you all. HEAR, my Lords, and ATTEND to your Conſul; and I hope I am not too bold, when I ſay, that Night and Day I think of my Country; *Catiline* had not ſuch a Contempt, and ſo deſpicable a Notion of our Government, as to imagine that he could deſtroy the City by the Force which he has carried out with him. The Infection of his Guilt is ſpread much wider than is commonly imagined: It has tempted many, and the Machine, pregnant with your Ruin, remains within our Walls, but never, my Lords, while I am Conſul, ſhall it ſurpriſe you in the Lethargy of Security.

YOU aſk of me what I apprehend from *Catiline*? Nothing; and it is through my Means that Nobody has any Thing to apprehend from him. But I ſay, that we ought to dread his Forces, which I now ſee in this very Place; for the Army of *Catiline* is not ſo much to be feared, as thoſe who are ſaid to be Deſerters from his Standard: They have not deſerted, but he has left them to lie in Watch,

in Ambuſh, for an Opportunity to attack our Lives and Liberties. They now want to perſuade this Court to paſs a Sentence which ſhall degrade from protecting this City, which ſhall drive from the Government of this State, a blameleſs Conſul, an excellent General, and one whom Nature and Fortune has attach'd to the Preſervation of his Country. I have already, my Lords, daſh'd their audacious Attempts in the Field of Election, I have weakened them in the *Forum*, and cruſh'd them even within my own Houſe; but ſhould you make them a Preſent of another Conſul, they will gain more from your Deciſion than they have ever been able to do by their own Swords. The Point, my Lords, which I have laboured and effected againſt great Oppoſition, is of the higheſt Conſequence; I mean that there ſhould be two Conſuls in the Government the 1ſt of *January*. Do not imagine that the unprecedented Deſtruction * of our Country has been concerted in cool Blood, in an ordinary Method, or by the pernicious Influence of Corruption. Reſolutions, my Lords, have been taken to aboliſh the City, to murder the Citizens, to extinguiſh the Name of *Rome*. And our Fellow Citizens, our Fellow Citizens, my Lords, if they deſerve ſuch Appellation, are laying, and

* *Unprecedented Deſtruction.*] *Catiline* was then in Arms, and at the Head of *Manlius*'s Army.

and have laid, all thoſe Schemes againſt their Country. I every Day countermine their Projects, I cruſh their Audaciouſneſs, I oppoſe their Guilt. But give me leave to put you in mind, my Lords, that my Conſulate is now drawing towards its Period, therefore withdraw not from me my Succeſſor in all my Labours; take not from me the Man to whom I wiſh to deliver over our unviolated Conſtitution, that he may yet defend it from its threatening Dangers.

BUT, my Lords, are you not ſenſible of an Addition which theſe Calamities muſt receive? I call upon you, *Cato*, upon you; do you not foreſee this Storm that threatens the Year of your Magiſtracy? For in Yeſterday's Aſſembly the Voice of your elected Collegue * thundered *Deſtruction*. This was what your Wiſdom, and all the worthy *Patriots* who invited you to ſtand for the Tribuneſhip, ſtrongly ſuſpected: All the Schemes which for theſe three Years together have been concerted, ever ſince (as you know) *L. Catiline* and *Cn. Piſo* enter'd into a Conſpiracy † to murder the Senate, are burſting forth in this Year, in this Month, and at this Time. Has there been a Place, my

* *Your elected Collegue.*] He probably means *Metellus Nepos*, who was a great Enemy to our Author, though ſome imagine it to have been meant of *Clodius*.

† *A Conſpiracy.*] See the Oration againſt *Catiline* where all this Paſſage is explained, Vol. II.

Lords, has there been a Seaſon, has there been a Day, has there been a Night, in which I have not been ſnatch'd and reſcued from the Deſigns and Swords of thoſe Traitors, leſs by my own Foreſight than divine Providence? Their Quarrel was not at my *Perſon*, but, by murdering me, they wanted to remove a Conſul watchful over the Preſervation of your Country. They have, *Cato*, the very ſame Deſigns upon you, could they compaſs them by any Means: Believe me, it is this they are now doing, it is this they are now labouring. They are ſenſible of your great Spirit, your Capacity, your Authority, and your Abilities to defend the State. But when they ſhall perceive the Power of the Tribuneſhip deſtitute of her Conſul's Authority and Aſſiſtance, they imagine that it will be more eaſy for them to overpower you in that defenceleſs Condition. For they are not apprehenſive of any Conſul being ſubſtituted in the room of *Murena*, becauſe they perceive that ſuch a Subſtitution is entirely in the Hand of your Collegues in the Tribuneſhip. They are in hopes that the illuſtrious *Silanus* * will be expoſed without a Collegue, you without a Conſul, and the State without a Guardian.

You, *Cato*, who are not born for *me*, or for *your-*

* *Silanus.*] He was the other Conſul elect with *Murena*.

yourſelf, but for your Country, it is incumbent upon *you* to provide againſt thoſe great Events, againſt thoſe imminent Dangers; to preſerve your Aſſiſtant, your Defender and your Aſſociate in the Government. Not an ambitious Conſul, but ſuch a Conſul as this Juncture requires; one whom his Fortune has form'd for cheriſhing Tranquillity, his Knowledge for managing Wars; and whoſe Spirit and Experience is equal to every Purpoſe you can deſire. But, my Lords, the whole of this depends upon you, in this Cauſe you decide upon the Government, and the general Intereſt of our Country.

HAD *L. Catiline* with his Cabal of Ruffians, whom he has carried along with him, been in a Capacity to judge in this Affair, he would condemn *L. Murena*; if he could, he would kill him. For his Schemes required that this State ſhould be deprived of her Supports, and that the Number of her Generals to oppoſe his Fury might be leſſened; that the Tribunes of the People, after their Antagoniſt is expelled, ſhould be more at Liberty to blow the Flames of Sedition and Diſcord. And ſhall the moſt worſhipful, and the wiſeſt of Mankind, delegated from our nobleſt Orders, paſs the ſame Judgment as would a moſt audacious Gladiator, the Enemy of his Country?

BE-

BELIEVE me, my Lords, the Sentence you are to paſs in this Cauſe, will affect your own Safeties no leſs than that of *L. Murena*. This is our laſt Struggle; if we are defeated here, we have no Reſource left; if we fall here, we are loſt to all the Means of our Recovery. We ought to be ſo far from weakening our preſent Supports, that, if poſſible, we ought to add to them. For our Enemy is not now upon the *Anio*, which was our greateſt Terror in the Punic War, but within the City, within the *Forum*. Immortal Gods! Can I ſay this without a Sigh? We have an Enemy in that very Sanctuary of our State, in that very Aſſembly of our Senate. May the Gods grant, that my brave Collegue may in Arms be able to ſuppreſs the unnatural Rebellion of *Catiline!* And I, in my Robes of Peace, to diſſipate and cruſh by your, and every good *Patriot*'s Aſſiſtance, the Dangers with which this State is teeming.

BUT what will be the Event, if theſe Dangers, after baffling our Endeavours, ſhould recoil in the enſuing Year? There will then be but one Conſul who will be leſs employed in the Management of War, than in the Means of aſſociating to himſelf a Collegue; his Enemies have prepared their Obſtacles, and the barbarous, the diſmal Peſtilence of *Catiline*'s Rebellion, will take every Opportu-

nity

nity of breaking out: It now threatens the *Roman* People, it will ſpeedily ſtretch to the Fields near the Walls of our City; Fury will take up her Abode in our Camps, Fear in our Senate, Conſpiracy in our *Forum*, an Army in our Field, and Deſolation in our Lands; while the Terrors of Fire and Sword ſhall haunt every Place even of our domeſtic Retirements. As to theſe Miſchiefs they have been long a hatching, all theſe may be eaſily cruſh'd by the State having the full Compliment of her Guardians, by the Wiſdom of her Magiſtrates, and the Zeal of her Subjects.

HAVING ſaid thus much, my Lords, in the firſt Place, Love for my Country, which ought to be the ruling Paſſion of every Man, gives me a Right to adviſe you according to my unwearied, and, by you, experienced Zeal for the State, to admoniſh you by my Conſular Authority, to conjure you by the Greatneſs of the Danger, that you would have a Regard to the Public Repoſe, Tranquillity and Welfare; that you would have a Regard to your own Lives, and thoſe of your Fellow Citizens. In the next Place, as I am directed by the Honour of a Defender, and the Duty of a Friend, I earneſtly entreat it of your Juſtice, not to drown the late Applauſes of *L. Murena* in a Flood of unlook'd-for Tears; as he is now wretched

and

and ſpent by the Diſtemper of his Body, and the Anguiſh of his Soul. It was but a little while ago, when he ſeemed happy in the greateſt Favour with which the People of *Rome* could grace him, as being the firſt of an old Family, and an ancient Corporation, who had ever been elected to the Conſulſhip: But now, my Lords, that you ſee him disfigured in the Meanneſs of Attire, emaciated by the Malignity of Diſeaſe, and ſinking under the Weight of Sorrow, he approaches your Knees, he atteſts your Juſtice, he implores your Compaſſion, and he throws himſelf wholly upon your Power and your Intereſt.

I beſeech you, my Lords, by the Immortal Gods, do not by thoſe Means, which he thought would be an Addition to all his former Honours, ſtrip him of thoſe, and of all his Dignity and Fortune. My Lords, my Client moſt earneſtly and humbly beſeeches you, if he has done Injury to no Man, if he has hurt no Man either in Word or Intention; if, to ſay the leaſt, he has incurred the Hatred of no Man, either at home or abroad, that you will have ſome Regard to the Temperate; that you will afford Shelter to the Humble, and Relief to the Modeſt. Great, my Lords, is the Compaſſion that is due to the Man who is deprived of the Conſulſhip; if he is ſtrip'd of that, he is ſtrip'd

of.

of his ALL. But ſurely, in theſe Days the Poſſeſſion of the Conſulſhip can be attended with no Envy, ſince it is expoſed to the Cabals of the Seditious, to the Treaſons of Conſpiracy, and the Sword of *Catiline*: In ſhort, it is the only Mark of all Danger, and all Obloquy. Therefore, my Lords, I cannot ſee what Envy *Murena*, or any of us, ought now to incur in this honoured Office. As to the Compaſſion due to us, that is even now familiar to my Eyes, and if you pleaſe may be plain and perſpicuous to you.

IF, may Heaven avert the Omen, you ſhould condemn him by your Deciſion, whether ſhall the unhappy *Murena* turn him? Homewards? There muſt he ſee the Statue of his illuſtrious Father, which but a few Days before was laurel'd in Compliment to his Honour, now diſfigur'd with the Marks of mournful Ignominy. Shall he turn him unto his unhappy Mother? She has but juſt embraced her Son a Conſul, but is now in Agonies at his doubtful Fate, and fearful that ſhe next ſhall ſee him diveſted of all his Dignity.

BUT why do I mention the Mother and Family of a Man, whom a new Penalty of the Law baniſhes from his Family and his Parents, and from the Company and Converſation of all his Friends. Shall the wretched *Murena* then be

be baniſhed? But whither? To the *Eaſt*, where he for many Years acted at Lieutenant, where he had Armies, and where he perform'd many glorious Actions? Alas! hard is the Lot of that Man who returns with Ignominy to a Place which he left with Honour. Shall he hide his Head in the oppoſite Part of the World? In the *Tranſalpine Gaul*, which lately with Pleaſure beheld him cloath'd with ſupreme Command, and ſhall ſhe now behold him a mournful and a wretched Exile? With what Eyes can he look upon his Brother *C. Murena* in that Province! How muſt the one be ſtruck with Anguiſh, the other with Sorrow, and both with Conſternation! What a Reverſe of Fortune and Diſcourſe! that in the very Place in which all Accounts a few Days before concurred that *Murena* was rais'd to the Conſulſhip, the Place from which his Friends and Acquaintance flock'd to pay him their Compliments at *Rome*; that he himſelf ſhould be the Meſſenger to carry to that Place the firſt News of his Diſgrace!

If theſe, my Lords, are bitter; if they are miſerable; if they are mournful Circumſtances; if they are ſhocking to your Humanity and Compaſſion, preſerve the Favour which the *Roman* People have beſtowed, reſtore her Conſul to the State; do this in Conſideration of the

the Purity of *Murena*'s Manners, of his dead Father, of his Quality, and of his Family, and likewiſe of *Lanuvium*, that moſt honourable Corporation, and whoſe melancholy Citizens you ſee here full aſſembled during this whole Trial. Tear not from the paternal Rites of *Juno Soſpita*,* which all Conſuls are obliged to celebrate, a Conſul in whom ſhe has ſo peculiar a Right. He is a Conſul, my Lords, if my Recommendation has any Weight, if my Aſſurances have any Authority; as a Conſul, my Lords, I recommend him to the ſame Character, as one who is zealous for your Tranquillity, indefatigable for your Intereſts, keen in oppoſing Sedition, brave in commanding an Army, and a ſworn Enemy of the Conſpiracy that is now ſhaking the Pillars of this Conſtitution; ſuch a Conſul I promiſe and engage *Murena* will prove.

* *Juno Soſpita.*] She was worſhipped in a peculiar Manner at *Lanuvium*, where *Murena* was born.

The End of the Oration for Murena.

ARGU-

ARGUMENT

OF THE

ORATION

FOR

P. QUINTIUS.

THE following Oration entirely relates to a private Cauſe, and was the firſt that Cicero *ever pleaded at the Bar: The Occaſion of it was as follows. A Company Trade had been entered into betwixt one* C. Quintius *and* Sextus Nævius: *Upon the Death of the former, all his Effects fell to his Brother* Pub. Quintius, *who was his Heir at Law; this brought on, as might be naturally imagined, a Diſpute betwixt him and* Nævius *about dividing the Effects. After ſeveral Altercations and Conteſts,* Quintius, *either through Indolence, or the Circumventions of* Nævius, *ſuffered his Recognizances, which, by the* Roman *Law, every Man, who was Party in an Action, was obliged to give in, to be forfeited: By this Means the Nature of the Cauſe came to be quite altered; and from defending the Merits of it, both Parties were obliged to plead to the Points of*

of Form that were to be obſerved in it. For when one of the Parties, by not appearing, ſuffered his Recognizances to be forfeited, the other had a Right to demand of the Prætor Poſſeſſion of his Effects. Nævius *inſiſted, that he had both obtained an Edict of the Prætor for this Purpoſe, and was in Poſſeſſion of the Effects; by this Means* Quintius *could not bring any freſh Action, or proceed upon the Merits of his own Cauſe, (which was what he wanted to do) without giving Bail of ſome Kind or other to ſtand the Judgment of the Court, and pay Coſts of Suit. This was enacted, becauſe a Perſon whoſe Goods had been ſeized, was not preſum'd to have Property of his own to ſatisfy the Judgment of the Court, and therefore he might again deceive them. The Prætor offered to enter upon the Conſideration of the Merits of the Cauſe afreſh, provided* Quintius *would either put in Bail alone, or depoſite a Sum of Money (called* Sponſio*) to be forfeited if he did not make good his Charge upon* Nævius. Quintius *was under a great Diſadvantage from both theſe Circumſtances. On the one Hand, if he gave in Bail, it was a tacit Conceſſion that his Recognizances had been forfeited; by which he muſt have been render'd* infamous. *On the other Hand, if he made the Depoſite, he became Plaintiff, and loſt a great Advantage of being Defendant, as he was originally. However, he choſe the latter.*

By this the Merits of the Cauſe came to be conſidered, and they depended upon this ſingle Point, viz. Whether *Nævius* had got *legal* Poſſeſſion

of the Effects of *Quintius* by the Prætor's Edict. *The Affirmative of this was maintained by* Hortenſius, *and the Negative by our Author. Some think that* L. Philippus *was likewiſe Council in this Cauſe; but it is plain, he was only intereſted as a Friend of* Nævius, *and very ſerviceable to him, by the great Intereſt and Authority he had in* Rome, *both from what our Author ſays, and does not ſay; for he would not have failed of bringing this as a Proof of his own Abilities, that when he was ſo young a Man he made head againſt two ſo great Orators.*

The Judge appointed by the Prætor was C. Aquilius, *or* Aquillius *(as ſome ſpell* Quintius, Quinctius.) *This Gentleman was a very able Lawyer, and his Aſſiſtants on the Bench were* P. Quinctilius, M. Marcellus, *and* L. Lucilius *(not* Lucullus *who was a Soldier) a Lawyer, as appears from our Author.*

The Cauſe was pleaded in the Comitium, *where all private Cauſes were heard, under the Conſulate of* M. Tullius Decula, *and* Cn. Cornelius Dolabella, *in the 672d Year of* Rome, *and the 26th of our Author's Age, according to* Gellius, *tho' many place it a Year later.*

M. T.

M. T. CICERO's ORATION FOR QUINTIUS.

THE greateſt Intereſt and Eloquence,* Circumſtances, Sir, that carry along with them an almoſt deciſive Influence in *this* State, are on this Occaſion, *both of them*, on the Side of our Adverſary. I have ſome Apprehenſions from the one,

* *The greateſt Intereſt and Eloquence.*] The Original has it, *Summa gratia & eloquentia*, which I had once Thoughts of tranſlating *the greateſt Popularity and Eloquence*; but when I conſidered, that in a Republic, or indeed in any State, *Popularity* is perhaps the ſtrongeſt Proof of Virtue, I found that this could not be the Meaning of *Tully*, ſo I have tranſlated it in the Senſe of *Aſconius*, who defines

and I dread the other.* I am under a Concern leſt the Eloquence of *Hortenſius* ſhould embarraſs me in Pleading; but the great Credit of *Nævius* exceedingly alarms me for the Intereſt of my Client.

YET theſe Advantages, tho' poſſeſs'd in the higheſt Degree by our Antagoniſts, would not be near ſo formidable, did we poſſeſs but a moderate Share of *either*. But this Cauſe is ſo circumſtantiated, that I who have but ſmall Experience,† and leſs Capacity, am to encounter a moſt eloquent Pleader; and my Client, whoſe Credit is but ſlender, whoſe Intereſt none, and whoſe Friends but a few, is to cope with an Adverſary in the higheſt Favour.

AT the ſame Time we are under this Diſadvantage, that *Marcus Junius*‡, who hath ſeveral

defines *Gratia* to be *Copia plurimorum amicorum*, which anſwers to *Ariſtotle*'s Definition of Πολυφιλια; which, according to him, renders Men confident of Succeſs. *Rhet. L.* 2. *T.* 159.

* *And I dread the other.*] The Original is *Quarum alteram vereor, alteram, metuo. Vereri*, imports Reverence ariſing from Eſteem; *metuo*, Dread under the Apprehenſion of Loſs or Puniſhment. *Senec. c.* 11. *Metuebant cum ſervi, verebantur liberi.*

† *Experience.*] *Cicero* had been ſcarcely a Year at the Bar when he delivered this Oration.

‡ *Hottoman* is here guilty of an egregious Blunder, which has paſſed unobſerved by any of the Commentators in *Grævius*'s Edition, and which is ſurprizing in a Man ſo accurate and ſo learned in the Civil Law as *Hottoman*

ſeveral Times pleaded this Cauſe before you, Sir, a Man of great Practice at the Bar, and frequently conſulted upon this very Point, is now abſent upon an unexpected Commiſſion,

 and

toman was. I ſhall tranſcribe his Words upon this Paſſage.

Apparet, ſays he, *aliquoties hanc cauſam ampliatam fuiſſe quod etiam infra ſignificat.* " Nec illud, *inquit*, mihi ar- " rogabo me poſſe cauſam commodius demonſtrare quam " antea demonſtrata ſit; *Item*" et ab illo, *inquit*, qui ante dixit informata jam cauſa eſt.

Manutius led *Hottoman* into this Error, *Freigius* took it from *Hottoman*, and *Grævius* from *Freigius*. But it is plain from what *Cicero* ſays, *cap.* 10. *Juſtat* Hortenſius *ut eas* (viz. *C. Aquili* & Aſſeſſores tui) *in concilium*; *a me poſtulat ne dicendo tempus abſumam*; *queritur* PRIORE PATRONO (viz. *M. Junio*) *cauſam defendente, nunquam perorare potuiſſe*; *non patiar iſtam manere ſuſpicionem*; *nos rem judicare nolle*; I ſay, it is plain from theſe Words, that this Cauſe never was *ampliata* or *adjourned*; for the *Ampliatio* was a Judgment of the Court after the Cauſe had been thoroughly debated, and the Judges *iviſſent in concilium*, neither of which in this Caſe had ever been done, as appears by our Orator's ſaying, that the Cauſe never had been *perorata*, nor the Judges *iviſſent in concilium*. The Reader will be convinced of this, by conſulting the learned *Sigonius*, *De Jud. L.* 2. *ch.* 22. and from the expreſs Words of *Aſcanius in Verrem*.

The Form of the *Ampliatio* was, that when the Pleading was on both Sides over, the Judges wrote upon the Tablets by which they were to give their Suffrages N. L. i. e. *Non liquet*. Hence they pronounced *Cauſam eſſe* amplius *cognoſcendam*. After what I have obſerved above, the Reader will obſerve, that the two Inſtances brought by *Hottoman*, are nothing to the Purpoſe; they prove indeed that the Cauſe had been ſpoke to before, but not that it had been *adjourned*.

But *Hottoman*, by his Fondneſs for this Obſervation, fell into a more capital Blunder, which I ſhall afterwards point out.

and it falls to me, who, tho' I were well qualified, yet am I ſtraiten'd in Time ſufficient for making myſelf Maſter of an Affair ſo important, and ſo intricate.

THUS, Application, which on other Occaſions ſupplied my want of Capacity, has on this failed me; as I have had neither Time nor Leiſure, the only Means by which the Strength of Application can be diſcern'd. But the greater, Sir, the Advantages of which I have been thus deprived are, the greater muſt be the Indulgence and Candour of you and your Aſſociates, while I am ſpeaking; that Truth, under many Difficulties and Diſcouragements, may be cheriſhed by the Equity of this Bench. If while you ſit on that Seat, Sir, Want and Weakneſs ſhall meet with no Protection againſt Credit and Power; if, in this Court, Intereſt inſtead of Juſtice ſhall determine the Event of a Cauſe; there is an End of whatever is ſacred, whatever is ſincere in *Rome*; and no longer ſhall the condeſcending Virtue and Dignity of the Judge chear the dejected Client; but with you, Sir, and your Aſſociates,* Truth will prevail, or if baniſhed from theſe Walls by Intereſt and Violence,

* *Your Aſſociates.*] *Aquilius*, being appointed Arbitrator in this Cauſe by the Prætor, choſe three Aſſeſſors, *viz.* *Lucilius*, *Quinctilius*, and *Marcellus*.

lence, no other Place will afford her a Retreat.

I SPEAK not this, Sir, as having the leaſt Doubt of your Integrity and Firmneſs, or as if *Quintius* had Reaſon to entertain the moſt ſanguine Hopes from thoſe very worthy Citizens whom you have ſelected as your Aſſociates. What then have we to fear?* In the firſt Place, a Man muſt be under the ſtrongeſt Apprehenſions when his *All in Life* depends on one deciſive Sentence. When *Quintius* reflects on this important Circumſtance, the Idea of your Power preſents to his Mind at the ſame Moment with that of your Juſtice; it being natural for every Man, whoſe Life is in the Hand of another, to reflect more frequently upon what the Perſon, who has an abſolute Power over him, *may do*, than what *he ought to do*.

IN the next Place, Sir, my Client has for his Antagoniſt *Sextus Nævius* only in Appearance, but in reality, Citizens the firſt of this Age in Eloquence, and the moſt diſtinguiſhed in *Rome* for Courage and Politeneſs, who defend *Sextus Nævius* with a joint Zeal, and with

* The Original is *Quid ergo?* I have often obſerved, that the little Forms of Speech where the Meaning is ſupplied by the Action, are very difficult to tranſlate. This is an Interrogation upon a former Suggeſtion beginning at the Words, 'If in this Court, *&c.*

their utmoſt Intereſt; if it can be called to defend a Man, when *indeed it is no other* than a *mean* Compliance with his Will in aſſiſting him to ruin, by an iniquitous Proceeding, any other Perſon whom he has in his Eye.

FOR what, Sir, can be more unjuſt or ſcandalous, than that I, who appear in Defence of whatever ought to be dear * to Man, in Defence of his Reputation and Intereſt, ſhould be

* *Whatever ought to be dear.*] I was obliged to be cautious in tranſlating this Expreſſion; in the Original it is *Qui Caput alterius defendam.* But the Word *Caput* here does not mean the natural Life; neither did the Expreſſion *Capitalis Cauſa* import a capital Cauſe in our Senſe of the Words. CAPITALIS (ſays *Modeſtinus*) *Latine loquentibus omnis cauſa exiſtimationis videtur.* That is, Whatever *Cauſe* could in its Event affect the Honour and Reputation of a Perſon, ſuch Cauſe was *Capitalis.* Of this Kind was the Action of *Nævius* againſt *Quintius*, for the deſerting of a Man's Bail for his Appearance was accounted *infamous*, and therefore every Action on that Account was capital.

Our Author here uſes a good deal of Art: For *Quintius*, *by laying the Depoſite*, (Sponſione facta) becoming the Proſecutor, was obliged to plead firſt; and indeed *Judgment* having been given againſt him already for *Default*, it ſeems to have been no unfavourable Alternative, that was offered him by the Prætor, by putting it in his Option to *ſolis ſatiſdare*, that is, alone to give Security for the *Coſts of Suit*, ſhould he be caſt; or *Sponſionem facere*, that is, depoſite a certain Sum which was to be forfeited to the Public, in caſe he did not prove that his Goods had come into the Poſſeſſion of the Adverſary by the Prætor's Edict. But *Quintius* repreſented that the firſt was *diſhonourable*, as it was owning the deſerting his *Sureties*, which was infamous; and the other diſadvantageous, as it obliged him to ſpeak firſt.

be obliged to be the firſt to plead; eſpecially as *Quintus Hortenſius*,* a Man endowed by Nature with a happy and copious Eloquence, is to anſwer me, and has undertaken to make good the Charge of the Proſecutor. Thus it happens, that I who ought to repel their Weapons, or to heal the Wounds, am obliged to give Proofs of my Dexterity before my Antagoniſt has aimed his Dart: While they have Leiſure to carry on the Attack, at the Time that we are deprived of the Means to avoid its Fury; and if, as they are prepared to do, they ſhall throw out a falſe Charge by way of a poiſoned Arrow, no Room is left for us to apply an Antidote to its Venom.

SUCH, Sir, are the Effects of Partiality and Injuſtice in the Prætor, who, contrary to all Precedents, choſe to give Judgment upon a Default,† rather than upon the *Point in Iſſue*, and in conſequence of this Judgment, *the Defendant* ‡ is obliged to plead before he has heard

* *Quintus Hortenſius.*] This celebrated Orator will be often mentioned in the Progreſs of this Work; we ſhall only obſerve here, that our Author could not have ſet out in his firſt Pleading with a greater *Eclat*, nor a greater *Diſadvantage*, than to encounter the beſt Speaker at the Bar; but this he affects ſeveral Times to have done, and by extolling the Abilities of *Hortenſius* paſſes a juſt and delicate Compliment upon his own.

† *A Default*] See the Augument.

‡ *The Defendant.*] Orig. *Reus.*

heard the Charge of the *Plaintiff*.* This Judgment was obtained by the Power and Credit of thoſe who truckle to the Humour and Avarice of *Nævius*, with as much Obſequiouſneſs as if their own Fortunes and Characters were at ſtake, and labour with all their Intereſt upon Affairs in which the greater the Influence is, which their Virtue and Quality give them, the more tender they ought to be in trying the Extent of their Power.

Publius Quintius, Sir, afflicted and oppreſs'd with ſo many, and ſuch diſcouraging Difficulties, throws himſelf upon your Integrity, Equity, and Compaſſion, ſince he has hitherto, thro' the Injuſtice of his Antagoniſts, laboured under all the *Diſadvantages* † of wreſted Law, unequal Intereſt, and a partial Judge; ſince from barefaced Iniquity, *every Circumſtance* has been unfavourable, every Step prejudicial to his Intereſt, he earneſtly begs you, Sir, and this Court, that you would ſuffer the Equity of his Cauſe, harraſs'd and oppreſs'd by many wrongful Proceedings, to find here *Shelter* and *Support*. That you may do this with the greater Pleaſure, I ſhall endeavour to make you comprehend

* *The Plaintiff*. Orig. *Accuſatoris*.

† *Diſadvantageous*.] Becauſe the Letter of the Law was taken Advantage of, without any Regard to Equity and Juſtice; *Nævius* had a great Superiority of Intereſt, and the Prætor was a Friend to him.

prehend the Riſe, the Progreſs, and the Management of this Tranſaction.

Caius Quintius,* the Brother of *Publius Quintius* my Client, was, in general, a diſcreet, induſtrious Houſe-keeper,† tho' overſeen in one Particular, by entering into Partnerſhip with *Sextus Nævius*, a *good Man* indeed, but educated in ſuch a Manner as to have no Opportunity of knowing what belonged to the Duty of a reputable Citizen; ‖ *yet to do this ſame* Sextus Nævius *Juſtice*, he has never been reckon'd either a dull Buffoon, or a ſtupid Auctioneer.‡ What then, *it may be ſaid*, was the Matter? Why, as his Voice is the moſt valuable Qualification he has from Nature, and his Liberty the only Inheritance he has by his Father, he let the one out for Money, and uſed the other as

* *Caius Quintius.*] The Subſtantive Verb here in the Orignial, ought to be placed not before *Frater*, &c. but *Pater Familias*, &c.

† *Houſe-keeper.*] *Pater Familias* in this Place ſignifies a Houſe-keeper, or one who kept a Family of Servants, and not as is generally ſuppoſed, the Father of a Family of Children; for it appears that *Caius Quintius* had none.

‖ *Reputable Citizen.*] In the Original, *Certi Patris Familias*, which at *Rome* ſignified as I have tranſlated it, and is a ſevere Cut upon the Birth and Education of *Nævius*.

‡ *Stupid Auctioneer.*] *Apulcius* tells us a great many Pieces of Humour in theſe Fellows, and we have ſeveral Inſtances of them in other Paſſages of our Author.

as a Privilege of being *impertinent and pert.**

THEREFORE † there was nothing for which you could take him into Partnerſhip, but that he might taſte in your Money what the Advantages of Money are. Yet *Quintius*, biaſs'd by his Acquaintance and Intimacy with this Perſon, admitted h[illegible] into a Partnerſhip in the Commerce then carried on in *Gaul*. He had a large Eſtate in Cattle, and a Farm pretty well improved, and, it muſt be allowed, fertile. *Nævius* is carried from the *Licinian* Porticoes,‖ and the Company of *Public Cryers* into *Gaul*, and *tranſported* beyond the *Alps*. Great indeed was the Change of his Climate, but in his Nature there was none: For that Perſon, who uſed to get Money without diſburſing any, after he had diſburſed ‡ I don't know what,

and

* *Impertinent and pert.*] This is a fine Sneer upon the Abuſe of Liberty in a free State; but it is ſurprizing that among a People of ſo ſtrong Paſſions as the *Romans*, the Liberty of Speech, tho' we find from their Hiſtory it had proceeded to very anwarrantable Exceſſes both in publick or private, never produced an Inſtance of any perſonal Reſentment, either from the Government, or among private Perſons.

† There is ſomewhat dark in the Original, I don't know if I have hit upon *Tully*'s Meaning.

‖ *Licinian Porticoes.*] Where the Auctioneers and Public Cryers plied.

‡ *Ne aliquid hic Obſcæni lateat cum* Paſſeratio *magno pere vereor.*

and toſt it in the common Stock, he could not be contented with a moderate Profit.

AND no Wonder, if a Man, who had hir'd out his Voice, ſhould imagine, that what he purchaſed at the Expence of his Voice, ſhould bring him an immenſe Profit. Thus he purloin'd into his private Pocket as much of the joint Stock as he poſſibly could, and that was no ſmall Sum.* In this he was as induſtrious as

* This Paſſage is very perplex'd, and I am apt to think that none of the Commentators have rightly underſtood it. The Original has, *Qua in re ita diligens erat quaſi ii qui magna fide Societatem gererent, arbitrium pro ſocio, condemnare ſolerent. Hottoman* reads *arbitrio, Grævius* takes away that Word entirely, *Budeus* reads *arbitrii, Manutius, ad arbitrium.* It is needleſs to give their ſeveral Reaſons and Authorities, the Reader may come at the Senſe by obſerving the following Particulars. There was an evident Difference betwixt a *Judicium* and an *Arbitrium.* In the former, the Prætor gave the Judge in Charge by what Law, or to what manner he was to pronounce Sentence. But in an *arbitrium*, which was the common Proceeding at Law in all Affairs of Copartnerſhip, all the Prætor's Charge to the Judge was, that he ſhould decide *ex fide bona.* Hence an *Arbitrium* or a *Judicium pro ſocio*, is called by Civilians, a *Judicium ex fide bona*, becauſe not Law, but Equity, was the Rule of the Judges Proceeding.

Therefore I ſhould be inclined to *Hottoman*'s reading *arbitrio*, and in that Senſe I have tranſlated it; but I am not ſatisfied that it is *Tully*'s Meaning; becauſe it would inſinuate that one Partner is not liable for any Loſs, or any Debts incurr'd by another in Partnerſhip, which is againſt Fact; and if *Nævius* was a Rogue, he had all the Encouragement in the World from the unreſerved Confidence with which *Quintius* treated him to purloin in that Man-

as if they who carry on a Partnerſhip with unreſerved Confidence, uſed to be puniſhed for their Partners in Arbitrations. But there is no Neceſſity, that I ſhould, in the Manner that *Quintius* would have me, explain myſelf upon this Head; and yet from the Nature of the Cauſe, ſuch an Explanation is expedient; but as *Expediency* only, and not *Neceſſity* calls for it, I will paſs it in Silence.

WHEN this Partnerſhip had ſubſiſted for many Years, and *Nævius* had been often ſuſpected by *Quintius*, as not being able to give any ſatisfactory Account for his arbitrary unreaſonable Conduct; *Quintius* dies in *Gaul*, while *Nævius* was there, and his Death was ſudden. He made *Publius Quintius* my Client, his Heir by his Will, that the Perſon who was moſt ſenſibly grieved, might be moſt remarkably honoured by his Death.*

P. Quintius ſoon after his Death, went to *Gaul*, where he liv'd familiarly with this Fellow *Nævius* for almoſt a Year; during which Time they often talked over all the Affair of the

Manner, becauſe the Loſs fell upon the Partnerſhip. Therefore, I would be inclinable to admit a very ſimple Correction here, which, in my Opinion, would make the Senſe much better, and that is by reading *quia* inſtead of *quaſi*.

* *Honoured by his Death.*] The *Romans* accounted it an Honour to be enroll'd in a Will.

the Copartnerſhip, of their Accounts, and their Stock in *Gaul*. Yet *Nævius* never drop'd the leaſt Hint, that either the Partnerſhip, or *Quintius* upon his own private Account, was in the leaſt indebted to him. As ſome Debt was left (by *Quintius*) and the Creditors were to be paid at *Rome*, *Quintius* (my Client) then in *Gaul*, advertiſes,* that he would make a Sale of his private Effects at *Narbonne*.

THERE it was that this very worthy Gentleman, *Sextus Nævius*, took the greateſt Pains to diſſuade *my Friend* from making this Sale. He told him, that it muſt be inconvenient for him to ſell thoſe Goods at that Juncture; that he could raiſe Money at *Rome*, and that *Quintius*, from the Regard that he (*Nævius*) had for his Brother, and his Relation with himſelf, might, if he was wiſe, uſe it as his own. (For *Nævius* married the Couſin of *P. Quintius*, and has Children by her.) As *Nævius* made Profeſſion of what an honeſt Man ought to do, *Quintius* believed that a Perſon whoſe Language was ſo much the Language of Honeſty, would in his Actions keep up to the ſame Character. *For this Reaſon*, he gives over the Thoughts of making any Sale; he ſets out for

* *Advertiſes.*] In the Original *proſcribere*, which was actually to advertiſe in this Caſe. The Advertiſement was by Placarts, which deſcribed the Quality and the Quantity, &c. of the Goods that were to be put up to Sale.

for *Rome*, and *Nævius* ſets out from *Gaul* to the ſame Place, at the ſame Time. As *C. Quintius* owed Money to *P. Scapula*, he ſubmitted to your Determination, the liquidate Sum,* that he was to pay to his Children. In this he employed you, becauſe, by reaſon of the Difference in Exchange, it was not ſufficient for him to know by his Books how much was owing, unleſs he knew at the Temple of *Caſtor*, how much he was to pay *in* Roman *Money*. You ſettled the whole, and from your Friendſhip to the Family of the *Scapula* took the Pains to liquidate the Sum in *Roman* Money that was to be paid to them.

ALL this was done by the Advice and Perſuaſion of *Nævius*; and indeed it was not at all ſurprizing, that one ſhould take the *Advice* of a Man who he thought was ready to give him

* *The liquidate Sum.*] The Critics and Commentators have puzzled themſelves about this Paſſage, which, but for the Duſt they have raiſed, would be very clear. *Caius Quintius* contracted a Debt to *Scapula* in *Gaul*: When *P. Quintius*, the Heir and Executor of the Contractor, came to pay the Debt to the Executors of *Scapula*, there happened to be ſome Difficulty in ſettling the Difference of Exchange between *Gaul* and *Rome*, and the Condition of the Bond was, that the Money ſhould be paid at *Rome*, not in *Gaul*. *Quintius* ſubmitted to *Aquillius*, and ſo went to the Temple of *Caſtor*, which was a Kind of public Exchange, where all Money-Matters were tranſacted and ſettled, and upon looking at the Books there he knew how to liquidate the Debt in *Romani* Money. *Gronovius* and *Voluſius Mæcianus* have given great Light into the Method of ſettling the Exchange in *Rome*.

him his Aſſiſtance. For he not only had promiſed him in *Gaul*, but every Day in *Rome*, that as ſoon as he (*Quintius*) ſhould give but a Hint, he would pay down the Money. Beſides, *Quintius* was ſenſible, that the other was in a Condition to do as he had promiſed; he likewiſe knew, that it was no more † than he ought to do; he did not think he deceived him, becauſe there was no Temptation for a Deceit. Therefore he appointed the Payment of a *Scapulæ* with the ſame Aſſurance, as if he had had the Money at home. He apprizes *Nævius* beforehand, and begs that he would take care to perform what he had promiſed.

THEN this moſt worthy Gentleman, I aſk his Pardon leſt he ſhould think that I intend to play upon him when I again call him *worthy*, thinking my Client was reduced to the utmoſt Neceſſity, that he might hit the very critical Hour for binding him down to his own Terms, refuſes to advance *one Shilling* for him, unleſs he would firſt ſettle all Affairs, and Accounts of the Partnerſhip; that thus he might be ſure never to be called to an Account. Said *Quintius*, afterwards we will ſettle all thoſe

† *Knew that it was no more.*] This he had Reaſon to think on two Accounts, firſt, as he was convinced that *Nævius* had ſunk a good deal of the Stock in Partnerſhip into his own Pocket; Secondly, As he lay under ſtrong Ties of Gratitude and Affinity to do him that Piece of Service.

Matters, but at preſent I beg of you that you would be as good as your Word. *Nævius* refuſes to comply upon any other Terms, and appeared to regard his Promiſe no more than he uſed to regard thoſe Promiſes,* which he made at Sales by Order of his Maſter.

Quintius being quite ſtruck with this Diſappointment, obtains a few Days of Delay from the *Scapulæ*, and ſends to *Gaul* to have thoſe Goods ſold, which he had advertiſed, which were ſold by Auction in his Abſence, and at a diſadvantageous Time. He pays off the *Scapulæ* upon Terms more diſadvantageous to himſelf. Then, ſo far from being call'd upon for a Debt, he even dunn'd *Nævius*; becauſe he ſuſpected that ſome Difference or other would happen, that he would take care to make up every thing betwixt them, as ſoon, and with as little Difficulty, as was poſſible.

Nævius offers as Arbiter † on his Part, *M. Trebellius*, with our Neighbour *Sextus Alphenus*, a Friend to both, one educated in his Houſe, and whom he very often converſed with. The Affair could by no means be made up, becauſe my

* *Promiſes.*] *Nævius* had been an Auctioneer; a Sort of Men, who, while they are in the way of their Buſineſs, are very laviſh of their Promiſes and Aſſurances.

† *Arbiter.*] *Amicum*, Orig. It was the Cuſtom in *Rome*, before they went to Law, to endeavour to make Things up by two or more Friends, and the Party who ſtood out was generally looked upon as a very litigious, troubleſome Perſon.

my Client desired to take up with but a moderate Loss, and *Nævius* insisted upon an extravagant Plunder.

THE Affair then began to be litigated ;* after the Recognizances were delayed from Time to Time, and when some Days had been spent without any Effect, *Nævius* at last entered into a Recognizance.

I BEG, *Caius Aquilius*, and you who are his Assistants in his Cause, your earnest Attention, that you may fully make yourselves Masters of an unprecedented kind of Villainy, and an unheard-of Method of tricking. *Nævius* pretends that he had made a Sale in *Gaul*; that he had sold off what he intended; that he had taken care the Partnership should not be indebted to him; that he would neither any more

* *The Affair then began to be litigated.*] Orig. *Res in vadimonium esse.* When the *Romans* entred upon an Action at Law, both Parties were obliged to give Bail to appear either by their Attornies, or in Person, before the Prætor by such a Day, commonly the third Day after. If either of the Parties failed, his Recognizance was forfeited, his personal Estate was, by the Edict of the Prætor, seized upon by the other Party, and himself held infamous. Hence *in vadimonium esse* is to go to Law. And *vadari* is to summon one to appear.

Manutius upon this Head falls into a Mistake. He supposes that the Parties were obliged to enter their Recognizances when the Affair was before the Arbiters; whereas it is otherwise, as appears from this Passage. What led him into this Mistake, might be the *Judicium per arbitrium, Vid. ut supra, in the Notes*; but then the Arbiter was a civil Magistrate cloath'd with a delegated Power from the Prætor.

act either as Plaintiff or Defendant, but that if *Quintius* had any Buſineſs with him, he was willing to tranſact it. As *Quintius* wanted to go to his Eſtate in *Gaul*, he did not upon that Occaſion demand any Bail of him; and they parted without it; tho' *Quintius* ſtayed behind for almoſt thirty Days, to withdraw his Recognizances upon what Buſineſs he had with other People, that he might be in Readineſs to ſet out for *Gaul*.

He actually ſet out, and left *Rome* on the laſt Day of *January*, under the Conſulate of *Scipio* and *Norbanus*. I beg that the Court would take particular Notice of the Day. *L. Albius* the Son of *Sextus* of the *Quirinian* Tribe, a Man of great Virtue and Honour, ſet out with him. When they were come to the Fords of *Volaterra*, they met with an intimate Friend of *Nævius*, one *Lucius Publicius*, who was carrying ſome Slaves from *Gaul* for the Market on this Fellow's Account. When *Publicius* came to *Rome*, he informs *Nævius* in what Place he had met with *Quintius*, which if he had not done, the Affair had not ſo ſoon come before a Court of Juſtice.

Nævius * then in Perſon diſpoſed of the Slaves

* This is a ſly Insinuation not attended to by Commentators. *Cicero* hints here that theſe Slaves were Preſents which he made to his great Friends, that they might ſupport him in this Action.

Slaves among his Friends; in Perſon he ſummon'd his Relations from the *Licinian* Porticoes, and the Paſſage into the Market, to attend him at the Booth of *Sextius*, † betwixt the Hours of Six and Nine the next Day, where they attended in great Numbers, and where this Fellow entered a Proteſt, that *Quintius* had not appeared to his Bail, but that himſelf had. The engroſs'd Proteſt was ſign'd by the Seals of honourable Gentlemen; away *Nævius* marches, and demands of the Prætor *Burrienus*, that he might have an Edict for poſſeſſing the Goods of *Quintius*. He orders the Goods of the Man who was formerly his intimate Friend, and ſtill his Partner, and, while his Children liv'd, his Relation by an indiſſoluble Tie, to be proſcribed.

FROM this Inſtance we may eaſily conclude, that * there is no Duty ſo ſacred, no Obligation ſo binding, as not to be infring'd and violated by Avarice; for if Friendſhip is cultivated by Truth, Society by Integrity, and Kindred by Affection, hollow, deceitful, and unnatural muſt that Man confeſs himſelf, who ſhall attempt to deprive his Friend, his Partner, and his Kinſman of his Fortune and Character.

Sextus Alphenus, Attorney to *P. Quintius*, and the

† A Money-Broker.

* I have tranſlated the Word *Officium* in two Senſes, which it bears in *Latin*.

the Friend and Neighbour of *Sextus Nævius*, tore down the Bills, carried off one little Slave, whom *Nævius* had laid hold of, declares himself to be Attorney for *Quintius*, and insists upon the Reasonableness of his providing, that the Reputation and Interest of *Quintius* should not suffer, and that he ought to wait for his Return to *Rome*. But that if *Nævius* would not comply, and fancy'd that by such Courses he should be able to force *Quintius* into his Terms, he would ask no Favour, but defend his Friend against any Action the other should bring.

WHILE this pass'd at *Rome*, *Quintius* against all Law and Precedent was driven by the Edict of the Prætor, which was executed by his own and *Nævius*'s Slaves, from their common Estate.

I will submit, Sir, that you should think every thing acted by *Nævius* at *Rome* to have been agreeable to Law and Equity, if what he did in *Gaul*, by his Letters, was either right or regular. *Quintius* expell'd, and driven from his Estate by such flagrant Injustice, has Recourse to *C. Flaccus*, the General, who was then in that Province, a Person whom I name on this Occasion, to do him that Honour which his Dignity requires. You may perceive by his Decrees how severely he thought this Proceeding ought to be punished.

IN

IN the mean time, *Alphenus* was daily ſkirmiſhing with this batter'd Gladiator at *Rome*; it is true, he was poſſeſſed of the * Advantage of the People's Favour, becauſe his Adverſary aimed every Blow at his Head. *Nævius* demands that the Attorney ſhould give Bail for Payment upon Judgment being given. *Alphenus* denies that it was juſt an Attorney ſhould give Bail; ſince the Principal himſelf would not be obliged to give it, had he been preſent. The Tribunes are appealed to, from whom a peremptory Deciſion was demanded; but they ſo made up Matters, that *Sextus Alphenus* promiſed to preſent *P. Quintius* by the 13th of *September*.

Quintius comes to *Rome*, and appears to his Bail. This violent Fellow, this Poſſeſſor, this Invader, this Robber of another's Property, for eighteen Months ſued for nothing, was quite eaſy, and amuſed my Client as long as he could with his Propoſals: At laſt he peti-

* The printed Copies all read *Utebatur populo ſane ſuo*, and all the Commentators have told us the Meaning is, that *Alphenus* made uſe of his Intereſt with the People to combat his Adverſary. The Commentary of *Manutius* upon this Paſſage is, *Suo* (ſays he) *ſui ſtudioſo, qui cuperet eum vincere uti populus in Gladiatorum pugna uni potius quam alteri favere ſolebat.* Speaking of the next Sentence, *Petere brevis enim pugna populo non placebat, itaque oderat eos qui nimium eripiendæ vitæ cupidi, caput in pugna peterent.* *Hottoman* very juſtly obſerves, that there is a Pun in the Words.

tions *Cn. Dolabella*, the Prætor, that *Quintius* ſhould put in Bail for the Action, according to the Rule by which he required of him, "The "Goods of the Perſon which he had poſſeſſed "for thirty Days, by virtue of an Edict of a *Ro-* "*man* Prætor." *Quintius* did not refuſe to ſubmit to put in Bail, *if it was found* that the Goods were poſſeſs'd by Edict. A Rule was made for that Purpoſe; with what Juſtice I ſhall not pretend to ſay; only I will venture to ſay it was unprecedented; and even this I ſhould have choſen to conceal, becauſe both will be ſufficiently underſtood by every Perſon. He orders *P. Quintius* either to put in Bail or to lodge a Depoſite along with *Sextus Nævius*, in caſe it ſhould be found that his Goods had been poſſeſs'd for thirty Days by the Edict of the Prætor *Burrienus*. They who appeared then for *Quintius* demurr'd to this; they ſhew, That Judgment ought firſt to be given upon the Fact; that either both or neither of them ought to put in Bail; and that there was no Neceſſity the Reputation and Credit of one Party only ſhould be put to the Trial.

Quintius himſelf beſides inſiſted very loudly that he would not put in Bail, leſt it ſhould ſeem as if Judgment had gone againſt him, or that his Goods had been poſſeſs'd by an Edict; and, on the other Hand, ſhould he lodge the Depoſite,

ſite, that he would be obliged to do the very Thing now in queſtion,. that is, be the firſt to ſpeak to a Matter that affects himſelf capitally. As Men in a high Sphere of Life, after they have once ſet out, whether it be upon a right or wrong Principle, perſevere in either to a Degree which one of our humble Station cannot attain to; ſo *Dolabella* perſiſts moſt manfully in the Wrong he had done. He orders Bail either to be given, or a Depoſite to be lodged, and our Advocates, who were all this While demurring, to be chaſed away with great Roughneſs.

IT muſt be owned, that *Quintius* went away in a great deal of Diſorder, and no Wonder, ſince he was left to ſo wretched, ſo unjuſt an Alternative, as to own himſelf capitally guilty by giving Bail, or be obliged to ſpeak in the firſt Inſtance by lodging the Depoſite. As in the one Caſe, there was no Manner of Reaſon why he ſhould paſs Sentence againſt himſelf, which is of itſelf the ſevereſt Kind of Judgment; and in the other, he had a Chance of coming before a Judge, who, the more he was unſupported would induige him with the greater Favour, he choſe to lodge the Depoſite. He did ſo; he took you, *Aquilius*, for his Judge; he pleads to his Depoſite; and in this conſiſts the whole of this Cauſe and Trial.

You

You perceive, Sir, that this is a Trial not of a Matter of Money, but a Trial that affects the Fame and Fortune of *P. Quintius*. Tho' our Anceſtors provided that the Man who ſpoke for himſelf in a capital Trial ſhould have the Advantage of ſpeaking laſt; yet we, by an unprecedented Malice of our Proſecutors, as you ſee, are obliged to ſpeak firſt. Beſides, you ſee thoſe * who before uſed always to act in the Character of Defendants, now turn Accuſers; and thoſe Abilities which were formerly employed in preſerving and aſſiſting, now exerciſed for the Ruin of Mankind. There remain'd but one Thing which they put in Execution yeſterday, and that was to ſummon you before the Prætor,† that you would limit the Time for making our Defence. This they certainly would eaſily have carried, had not you taken Care ‡ to inſtruct him in what your Character and Duty required. Nor was there any other Judge beſides yourſelf by whom we could have made our Plea good againſt the Proſecution; nor were they ever ſatisfied with obtaining

* *Thoſe*] Meaning *Hortenſius*, who had ſeldom till then appeared in the Character of an Accuſer.

† *Summon you before the Prætor.*] Tho' *Aquilius* was as it were Preſident of the Court, or rather, Foreman of the Jury, in this Caſe, yet it appears that the Prætor had a Power to regulate the Forms of their Proceeding.

‡ *To inſtruct him.*] This is a Sneer upon *Dolabella*'s Ignorance.

taining what they might juſtify to all the World: So weak, ſo mean do they think all Power to be, that is not Oppreſſive.

BUT as *Hortenſius* preſſes you to pronounce Sentence; and requires of me, that I would not conſume the Time in talking; complaining, that while the laſt Counſel ſpoke in this Cauſe it never could come to a Point; I will no longer ſuffer that Suſpicion to lie againſt *us*, as if *we* were unwilling that the Matter ſhould be finally determined. I ſhall neither be ſo vain as to pretend that I can lay out the Cauſe to more Advantage than it has hitherto been, nor ſhall I uſe a great many Words; both becauſe it has been already opened by the Gentlemen who ſpoke to it before, and becauſe I, whoſe State both of Body and Mind * is ſuch as that I can neither think nor ſpeak long, am required to be very brief, a Circumſtance extremely favourable to myſelf.

I WILL do, *Hortenſius*, † what I have often obſerved you do; I will throw my whole Pleading into certain Diviſions. This you always do, becauſe you always can do it; I will do it upon this Occaſion, becauſe upon this Occaſion I think I am able to do it. I have for once

* *Body and Mind.*] Our Author, as he tells us in his *Brutus*, was then in a very weak State of Health.

† *I will do*, Hortenſius.] Our Author here takes Notice of the affected Regularity for which *Hortenſius* was famous in his Pleading. *Vid. Quintilian.* Inſ. l. 4. c. 5.

once the ſame Aſſiſtance from the Nature of my Cauſe that you always have from the Excellency of your Parts. I will lay out certain Bounds and Limits to myſelf beyond which I cannot go, tho' I were ever ſo willing. Thus I ſhall have a regular Plan to ſpeak upon, and *Hortenſius* will have digeſted Matter enough to anſwer. And you, Sir, can already form ſome Conjecture as to the Matters that are to be laid before you.

WE deny, *Sextus Nævius*, that you poſſeſs'd the Goods of *Publius Quintius*, by virtue of any Edict from the Prætor; the Depoſite was laid upon this Point. I will prove, in the firſt Place, that you had no Grounds for requiring the Prætor to put you in Poſſeſſion of *Quintius*'s Effects; Then, that you could not poſſeſs them by virtue of any ſuch Edict: Laſtly, that you did not poſſeſs them. I beg, Sir, that you and this Court of Aſſiſtants will be careful to remember what I have undertaken to prove; for you will thereby have a more clear Comprehenſion of the whole Matter; and it will be eaſy to check me by your Correction, ſhould I attempt to tranſgreſs the Limits which I myſelf have fixed. I deny there was any Ground for his Petition; I deny that he could have poſſeſſed by the Prætor's Edict; and I deny that he did poſſeſs. When I have ſhewn theſe Points I ſhall finiſh my Pleading.

HE

He had no Ground for a Petition! How can that be proved? Becauſe *Quintius* never owed any Thing to *Sextus Nævius* either upon a Company Account, or upon a ſeparate Concern. Who is Evidence for this? Why our keen Antagoniſt. I ſay, *Nævius*, I will produce you yourſelf as an Evidence for us upon this Point. My Client lived with you for a Year or more in *Gaul*, after the Death of his Brother. Prove that you ever required him to pay that *unaccountable*, monſtrous Debt: Prove that you ever mentioned it: Prove you ever ſaid it was due, and I will admit it to have been a fair Debt.

My Client's Brother dies, who you ſay ow'd you a large Sum upon the Balance of a vouch'd Account. My Client, who was his Heir, comes to yourſelf at *Gaul*, upon your common Eſtate, where not only the Effects lay, but all the Books and Papers relating to your joint Trade. Can we ever ſuppoſe a Man ſo heedleſs of his private Affairs, ſo unlike yourſelf, *Sextus*, as when the Effects were gone out of your Partner's Hands, and had fallen to his Heir, not to give the latter Notice; not to take the very firſt Occaſion to ſummon him to make Payment, and balance Accounts: And if any Thing had been diſputed, either to have made it amicably up, or tried the utmoſt Stretch of Law? Is it thus? Even what the beſt

beſt of Men act when they deal with their neareſt and deareſt Relations, whom they wiſh to live with Reputation in the World, ſhall *Sextus Nævius* refuſe to do? He who is ſo ſtung with Avarice, ſo much a Slave to Money, as that he refuſes to part with the ſmalleſt Share of his Advantages, leſt he ſhould leave ſome of them to do Credit to his own Kinſman.

AND ſhall ſuch a Man not aſk for his Money? One who, becauſe he is not paid what never was owing to him, endeavours to deprive his Kinſman not only of his Property, but of his Blood and Life. Is it likely that you ſcrupled being troubleſome to that Man, to whom you now grudge the common Air? You was once ſo ſhamefaced that you would not ſummon the Man whom you now unnaturally ſeek to murder. * Belike you was unwilling or afraid to ſummon your Kinſman, one devoted to you, a Man of Worth, of Modeſty, and of more Years than yourſelf. But, as uſually happens, after you had reaſon'd yourſelf into Reſolution, after you was determined to mention the Money, when you were come prepared and ready, like a baſhful Creature as you was, your Virgin Modeſty checked you all of a ſudden; your Speech failed you, and when you wanted to aſk him for the Debt, you durſt not, for fear he ſhould hear ſome-

* The Reader will eaſily ſee, that this is Irony, and of the ſtrongeſt kind.

ſomewhat that ſhould not pleaſe him. This to be ſure was the Truth of the Matter.

LET us then ſuppoſe that *Sextus Nævius* was tender of ſhocking the Ears of the Man whoſe Head he is now ſeeking. Had he ow'd you any thing, *Sextus*, you would have made an immediate Demand, if not immediately, at leaſt ſoon after; if not ſoon after, yet ſome time or other; ſuppoſing half a Year; in a whole Year you certainly would; but eighteen Months paſt, during which you had daily Opportunities of mentioning the Thing to your Friend; yet not a Word of it: And now that two Years are almoſt out, ſhall you ſue him! Is there a young Heir, even before his Eſtate is diſſipated, and while he is fluſh of Money, ſo heedleſs as *Sextus Nævius* then was? The very mention of the Man ſeems ſufficient for my Purpoſe.

C. Quintius was in your Debt; you never aſked him; he died, his Eſtate came to his Heir; and tho' you was with him every Day, for almoſt two Years, you then ſue him at Law. Will it admit of a Doubt, whether it is more probable that *Sextus Nævius* would have ſued him immediately, had any thing been owing to him; or that he would not even have aſked for it in two Years? Had not you Time for demanding it? Yes, he lived more than a Year with you. Could not the Action have been

carried

carried on in *Gaul*? Yes, there were both proper Courts in the Province, and the Law was open at *Rome*. So that in short, you muſt have been prevented either by the moſt inexcuſable *Negligence* or unparalleled *Generoſity*. If you plead *Negligence*, we ſhall *wonder*; if *Generoſity*, we ſhall *laugh*: But I can't find any other Motive you could have.

THERE needs no other Argument to prove that nothing was owing to *Nævius*, than his being ſo long without aſking for it. But ſuppoſing that I ſhould bring his preſent Proceeding as a poſitive Evidence, that nothing was owing to him? For what is *Sextus Nævius* a doing now? What is the Subject of Diſpute? What have we been trying for theſe two Years? What is the mighty Affair that has fatigued ſo many and ſuch worthy Men? He demands his Money; what! never till now? That is not to the Purpoſe! Let us hear what he has to offer.

HE wants that the Accounts and Differences of the joint Trade ſhould be ſettled. It is a little with the lateſt; however, better late than never. Be it ſo. But, Sir, ſays he, that is not my Buſineſs at preſent; that is not what I now aim at. *P. Quintius* has had the Uſe of my Money for ſo many Years: I am contented; let him uſe it. Then what do you contend for? Is it, as you have own'd in many Places,

that

that he may be baniſhed this State? That he may not obtain that Rank which he has hitherto reputably maintained? That he may be numbered among the Dead? That he may be obliged to fight for his Life and all his Honours? Is it that he may be the firſt to plead his own Cauſe before the Judge, and when his Pleading is over that he ſhould then, and not till then, attend to the Charge of the Proſecutor? But how! What Purpoſe will this ſerve? Will it enable you to come more ſpeedily to your Right? But if this was all your End, you might have obtained it long ago.

WAS it that you might diſpute the Matter by a more honourable Form of Proceeding? But it is impoſſible even for you, without an Imputation of the deepeſt Dye, to commit Murder upon the Perſon of *P. Quintius*, your Kinſman. Was it to facilitate the Trial? But *Caius Aquilius* takes no Pleaſure in capital Trials; nor is *Q. Hortenſius* accuſtomed to plead upon capital Indictments. But what do we anſwer, Sir? He demands his Money; We deny that we owe him any. Then we ſhall join Iſſue directly: With all our Hearts. Any thing beſides? If he is afraid, that after Judgment is given, the Effects will not be forth-coming, then let him take the Security which we now offer him:

And let him put in Bail in the very ſame Terms, for my *Claim* that I put in for *his*. This, Sir, would bring the Affair to a ſhort Iſſue, and you might now be at Liberty to go out of the Court releaſed, I had almoſt ſaid, from as great Perplexity as is that of *Quintius*. What are we doing, *Hortenſius*? Why do we plead upon theſe Terms? Shall we never be able to ground our Arms, and, without riſking our Fortunes, diſpute about a Money-Matter? May we not purſue our Intereſts ſo as not to affect the Life of an innocent Relation? May we not ſupport the Character of a *Plaintiff*, and lay aſide that of an *Impeacher*? No, ſays he, I will have Bail from you, but will put in none myſelf.

BUT give me Leave to aſk, who has made this fair Allotment of the Terms upon which we are to proceed? Who has laid it down, that the ſame thing ſhould be equitable as to *Quintius* and unjuſt as to *Nævius*? The Eſtate of *Quintius*, ſays he, is ſeized by the Prætor's Order. So you beg a Queſtion, that we may in our Plea admit a thing to have happened, tho' we are now contending that it never did happen. Can no Rule, Sir, be laid down by which a Man may come to his own without branding, diſgracing, or ruining another? If any thing had been due to *Quintius*, he ſhould have ſued for it, and not have choſen that all the Forms of

Law

Law ſhould be gone through rather than * the ſingle one that has given Riſe to all this Proſecution. *Nævius* for Years together never called upon *Quintius* for Payment, tho' he had daily Opportunities of doing it. Ever ſince he began † this unreaſonable Suit he has trifled away the whole Time in putting off the giving Bail. After he had withdrawn his Recognizances he fell upon Tricks to drive my Client from the joint Eſtate. When nobody oppoſed his endeavouring to recover his own Right by a civil Action, he choſe to put in Recognizances, and to enter an Action of Fraudulency. After he is called upon to abide by that Court, which gives Riſe to all the preſent Proceedings, he rejects that moſt equitable Propoſal, and thereby owns that it is not *Money* he wants, but *Blood*. Does not a Man who acts in this Manner avow publicly, *Had any thing been due to me I would have ſued for it, and would have carried it off long enough ago. I never would have carried on ſo troubleſome an Action, nor have entered into ſo invidious a Suit, nor have brought down ſo numerous an Appearance of Friends, had I been barely a Plaintiff. An unjuſt Debt muſt be extorted by Force and with Ill-will: It muſt be wreſted, it muſt be*

* *The ſingle one.*] He means the *Judicium pro ſocio*, which, had it been determined in favour of *Nævius*, would have brought him to what was due to him without any farther Trouble on either Side.

† *This unreaſonable ſuit.*] Orig. *Malè agere cæpit.*

ſqueezed out of him: P. Quintius *muſt be ſtript of all his Fortunes: All my powerful, my eloquent, my noble Friends muſt be engaged to appear in Court: The Law muſt be tortured into my Purpoſe: Menaces muſt fly, Dangers muſt be threatened, and Terrors muſt be contrived, that he may be daunted and frighten'd, and of himſelf give up his Fortune.*

AND indeed all theſe Conſequences ſeem preſent, imminent and inevitable, when I ſee who are my Client's Antagoniſts, and conſider the Appearance upon thoſe Benches. But when I recal my Eyes, and Attention to you, Sir, I conclude that all theſe Circumſtances will have the leſs Weight and Strength with you, in Proportion to the Eagerneſs and Zeal with which they are managed. You yourſelf *Nævius* own that *Quintius* owed you nothing: But what if he had owed you? Would that have been any Reaſon for your inſtantly ſuing for the Poſſeſſion of his Eſtate before the Prætor? I take it, that ſuch a Proceeding is both againſt Law, and even againſt his own Advantage. What then are his Allegations? *His Recognizances*, he ſays, *are forfeited by his Non-Appearance.*

BEFORE I ſhall prove that this is not the Caſe; give me Leave, Sir, to conſider the Matter itſelf, and the Proceeding of *Sextus Nævius* at the ſame time, upon the Principles of com-

mon

mon Humanity, and the Practice of Society. You ſay,* that he has not appeared to his Recognizance; *Who has not?* The Man with whom you are connected by all the Ties of Affinity and Partnerſhip; in ſhort, by all the ſocial Duties, and by a long ſubſiſting Relation. Was it proper that ſuch a Man ſhould inſtantly apply to the Prætor? Was it equitable to make an immediate Demand to have Leave to poſſeſs his Goods by an Edict? Did you hurry to theſe laſt and moſt violent Meaſures on Purpoſe to exhauſt all the Severity and Cruelty which you could employ afterwards? For what could happen more diſgraceful, more wretched, or more bitter to any Man? Was it poſſible for any greater Diſgrace to be deviſed, or any ſo affecting Calamity invented? If Fortune † or Violence ſubjects any Man to the Loſs of Money, provided his Character remains unſtained, his Character will eaſily prove a Conſolation to him in his Affliction. Again, a Man who is either *diſgraced* with *Infamy*, or *convicted* upon an *Impeachment of Scandal*, may ſubſiſt upon his own Means, without being

* *You ſay.*] I don't know what *Grævius* meant here by reading for *ut*, *ait*.

† *If Fortune.*] There is a fine Gradation here; A Man may be poor, and yet have the homefelt Satisfaction of Mind that he ſtands fair to the Eye of the World; a Man may be infamous, and yet he may be rich, and live comfortably upon what he has; but *Quintius* in this Caſe is in hazard to be both *poor* and *infamous*.

obliged to have Recourſe to that mortifying Circumſtance of being relieved by another, and ſtill his Calamity is lightened by this Support and Reflection. But the Man whoſe Eſtate is ſold, whoſe rich Poſſeſſions, nay, even whoſe Apparel and common Neceſſaries of Life are put up, with every Circumſtance of Ignominy, by the Voice of a Cryer, ſuch a Man is not only expelled from the Number of the Living, but, if poſſible, is condemned to a Condition even below that of the Dead. For a generous Death * often ſets off a ſcandalous Life; but a Life ſo diſgraceful as this, leaves no Room even for a generous Death. Give me Leave to ſay then, that if a Man's Eſtate is ſeized by an Edict, all his Reputation and Character goes at the ſame Time with his Eſtate.

* *A generous Death.*] All the Commentators and Editors of *Cicero*'s Works have read this Paſſage in the following Manner. *Mors honeſta ſæpe vitam quoque turpem exornat, vita turpis ne morti quidem honeſtæ locum relinquit*; and the greateſt Friends of our Author have bluſhed for the Ridiculouſneſs of the Sentiment. But by admitting a very ſimple Correction, it may be reconciled not only to Senſe, but it becomes a very pathetic Reflection. The Miſtake of the Reading here has probably been occaſioned by an Alteration or Repetition of the three Letters, *i*, *t*, *a*, which the Tranſcribers thinking to be a Miſtake, wrote *Vita*, inſtead of *Vita ita*. In this Senſe I have tranſlated it, and it is thereby of a Piece with all the Reaſoning of our Author upon this Paſſage, in which he ſuppoſes a Perſon under ſuch unfortunate Circumſtances to be worſe than dead; *Huic enim*, ſays he, *acerbiſſimum vivo videntique funus ducitur*.

Eſtate. The Man who is publickly advertiſed in the moſt frequented Places, has not even the poor Privilege of dying in Silence and Obſcurity. Such a Man has Directors and Commiſſioners appointed, who are to preſcribe to him the Conditions, and the Terms of his Doom. The Man who is publiſhed and appraiſed by the Voice of a Cryer, lives to ſee his own untimely and melancholy Funeral paſs along; If we can call that a *Funeral*, where, inſtead of Friends meeting to pay their laſt Duties, the *Brokers* of Eſtates alone meet like Executioners to *draw* and *quarter* the wretched Remains of his Life.

Our Anceſtors therefore, willing that this ſhould ſeldom be the Caſe, have provided that the Prætors ſhould proceed with great Deliberation. Men of Worth, when a Debt is poſitively denied, or when they have no Opportunity of trying it at Law, fall into this Expedient cautiouſly, and Step by Step: They are dragg'd into it by Force and Neceſſity, and not till many Recognizances have been forfeited, and themſelves abuſed by repeated Tricks and Evaſions. For they conſider what an important, what an heavy Thing the Proſcription of another Man's Goods is. There is no Man of Virtue who would chuſe to cut the Throat of his Fellow Citizen, tho' he could do it by Law. He will chuſe that it ſhould be talked

of, that he *ſpared* where he could *deſtroy*, rather than that he *deſtroyed* when it was in his Power to *ſpare*. Such is the Conduct of Men of Virtue, towards even the meereſt Strangers; nay, to their greateſt Enemies, both that they may conſult the Fairneſs of their own Character amongſt Men, and the Sentiments of common Humanity; with this View, that as they have not *knowingly* diſtreſſed any of their Fellow-Creatures, ſuch Diſtreſs may never be retaliated upon themſelves.

He did not appear to his Recognizance: Who? Your Kinſman. Suppoſing that this in its own Nature was an Affair of very great Weight and Importance, yet the Duty of that Relation which ſubſiſts betwixt you, ought to alleviate the Charge. He did not appear to his Recognizance; Who? Your Partner. You ought to make greater Allowances than even this to a Man with whom you had been either connected by Choice, or joined by Fortune. He did not appear to his Recognizance; Who? The Man who never was out of your Company: For this Reaſon, you have levell'd at the Man who has once fallen into the Miſtake of not being in your Company, all thoſe Weapons that were intended againſt thoſe who have been guilty of notorious and frequent Bankruptcies.

SUP-

SUPPOSING, *Sextus Nævius*, a Queſtion ſhould ariſe upon your Poundage,* ſuppoſing that you were ſuſpicious of being tricked † in ſome Trifle or other, would you not inſtantly have Recourſe to *Caius Aquilius*, or ſome other noted Council? But when the Duties of Friendſhip, Society, and Relation were in Queſtion; when the Practice of your Duties as a Man of Character and Reputation were to be conſulted, at ſuch a time, ſo far was you from conſulting *C. Aquilius* or *L. Lucullus*, that you did not even conſult yourſelf; you made not even a Reflection: You did not ſay to yourſelf, ‡ *The two Hours are paſt*, and *Quintius has not appeared*

* *Poundage.*] Orig. *Dupondius*, which ſignifies the Money which a Broker has for diſpoſing of another's Property; ſo much *per Cent.* or *per Pound.*

† *Being trick'd.*] *Orig. Captionis aliquid verere. Captio*, in the Civil Law, is a Fraud by which Loſs ariſes to another. There is ſomewhat like this Expreſſion among the Vulgar in *England*, when they ſay a Man is *taken in*, or *a Take in.*

‡ *The two Hours are paſt.*] The Commentators have an excellent Knack when they don't underſtand the Reaſoning of our Author, to throw it all upon ORATORIAL LICENCE, *Oratorie Dictum*; which they apply in claſſical Learning, in the ſame Manner as our Schoolmen did their *Occult Qualities* in Natural Philoſophy. *Grævius* agrees with *Manutius* in explaining this Paſſage, and the latter ſays, that our Author *ſpoke oratorially*; that is, *made a Lie in the Face of the Court, becauſe*, ſays he, *the Recognizances muſt have been forfeited four Days at leaſt, which* Cicero *contracts into two Hours or leſs.* But in Reality, our Author in this Place does not ſpeak that the Recognizances

peared to his Recognizance; *How ſhall I proceed?* By Heavens! had you only but dropt thoſe two Words in debate with yourſelf, *How ſhall I proceed?* your Covetouſneſs and Avarice would have relented a little. You would have made ſome Allowances to *Decency* and *Prudence*; you would have recollected yourſelf and not have behaved ſo ſcandalouſly, as to make an open Confeſſion before thoſe honourable Perſons, that you took your Meaſures the very Hour your Adverſary did not appear, how you might utterly ruin the Fortunes of your Kinſman.

I NOW, in an Affair which is over and foreign to me, enter into thoſe Conſiderations for you, which, while they were ſeaſonable, you forgot to enter into youſelf. Give me Leave to put the Queſtion to you, *Caius Aquilius*, *L. Lu-*

nizances had been forfeited for a longer or a ſhorter Time; the *two Hours* he mentions here, are the two Hours in which the Prætor ſat in Judgment, during which Time *Quintius* did not appear. The Queſtion here is not whether *Nævius* had waited four Days, or two Hours, before he proceeded to Extremities; for our Author does not put it at all upon that Footing. He ſays, ſoon after, that *Nævius* had fallen into a palpable Falſhood, becauſe it was impoſſible for *Quintius* to have entered into any ſuch Recognizance at all; for he went from *Rome* for *Gaul* the laſt of *January*, and *Nævius* ſaid the Recognizances for their Appearance were drawn up the 5th of *February*, and *Cicero* accordingly reaſons from this *Nonis Feb.* (that is, the 5th of *February*) *Romæ ſi fuit cauſæ nihil dicimus quin tibi vadimonium promiſerit.*

L. Lucullus, *P. Quinctilius*, and *M. Marcellus*. A Partner, and a Relation of my own, with whom I had liv'd long in Intimacy, has not appeared to his Recognizance; and a freſh Diſpute happens upon a Matter of Money, am I to petition the Prætor for Leave to ſeize his Goods; am I not rather to * give him Notice at his own Houſe, as he has a Family, a Wife and Children in Town? In what Light does this Matter appear to you? I will venture to ſay, that if I am not very much miſtaken in the Opinion I have of your Good-nature and Conduct, I am not much at a Loſs to find out what your Anſwer would be, if you were aſked. In the firſt Place, *to wait a little*; and then if the Debtor ſhould abſcond, or ſeem to trifle with you, to have a Meeting of Friends, to aſk who is his Attorney, to leave Notice for him at his Houſe: It can ſcarce be expreſs'd how many Anſwers ought to be given, before you ſhould proceed to this laſt and unavoidable Step.

WHAT does *Nævius* ſay to all this? Why, he laughs at our Folly, for expecting from his Morals the Practice of the higheſt Duty, or the Maxims of good-natured Men. *What have I to*

* *Give him Notice.*] Orig. *Denunciare*, which was a Technical Term in the *Roman* Law, exactly correſponding to our Lawyer's Expreſſion of *giving Notice*.

to do, says he, *with these scrupulous Qualms of Conscience, and with all this cautious Conduct? Let the Men of Virtue look to these Duties, but they should look upon me in another Light; they should enquire not into my Wealth, but into the Means I took to amass it: I remember the Circumstances of my Birth, and the Principles of my Education. It is an old Saying,* "*That it is much* "*easier to make a rich Man, than an honest* "*Man, of a Buffoon.*"

SUCH are his Declarations, in effect, tho' he is afraid to own them in express Terms. For if he desires to live in the Character of a Man of Worth, he has a great deal to learn, and to unlearn, both which are extremely difficult at his Years.

I did not boggle, says he, *when the Recognizance was forfeited, to proscribe the Goods.* Unconscionable Rogue! we admit it, since you arrogate this to yourself, and make it a fundamental Principle of Conduct. But what if he never did forsake his Bail? What if all this Plea is a most knavish Forgery of your own? What if no Recognizances ever subsisted betwixt you and *P. Quintius*? What Epithets shall I then find to fit you? An unconscionable Fellow? But you proved yourself the most eminent of all Rogues, even supposing *Quintius* had not appeared to his Recogni-

cognizance, by that Petition of yours, and by the Proſcription of his Eſtate. Shall I call you a *crafty Villain?* That you don't deny. A *Trickſter?* That is a Character you claim and glory in. Shall I call you *audacious, avaricious and perfidious?* Theſe Terms are all of them *old* and *obſolete*; whereas this Matter is *new* and *unprecedented.*

WHAT Term then ſhall I uſe? By Heavens, I'm afraid that they will be either too harſh for my Nature, or too gentle for this Cauſe. You ſay, that the Recognizances were forfeited.* As ſoon as *Quintius* returned to *Rome*, he aſked of you to tell him for what Day the Recognizances were made; you inſtantly anſwered, on the fifth Day of *February*. When *Quintius* was gone, he began to recollect the Day on which he ſet out from *Rome* to *Gaul*: He immediately goes to his Journal, and finds the Day, in which he ſet out, to be the laſt Day of *January*. If on the fifth of *February* he was at *Rome*, we ſhall admit that he entered into this Recognizance with you.

But how can this be found out? *Lucius Albius*, a Man of the ſtricteſt Honeſty, ſet out along with him in his Journey. He will give his Evidence: Some Friends to both *Albius* and *Quintius* followed them. They too ſhall be exa-

*. See Note, *Page* 313 and 314.

examined as to this. The Letters of *Publius Quintius*, and ſo many Witneſſes, who had all the ſtrongeſt Reaſon to be informed as to this Fact, and againſt whom there lies no Grounds of Suſpicion of their prevaricating, ſhall be confronted with your Friend, who was your Voucher at the Contract.

AND ſhall *Publius Quintius* be under any Difficulties in a Cauſe of this Nature? Shall he any longer paſs his wretched Time in ſo much Fear and Danger? Shall he be under a ſtronger Dread from the Intereſt of his Antagoniſt, than he has well-grounded Confidence in the Integrity of his Judge. For he has always lived in a rude unpoliſhed Manner; his Temper was melancholy and dark; he never frequented the *Forum*, the Field or Feaſtings: His main View has been to preſerve his Friends by his reſpectful Behaviour, and his Eſtate by a frugal Oeconomy. He lov'd the good old-faſhioned Way of living, tho' all its Beauty is now obſcured by our new-fangled Modes. Even ſuppoſe in a Cauſe wherein the Merits are much alike, if he ſeemed to come to the worſt, that would be Matter of Complaint. Now that he has ſuperior Merits on his Side, he does not contend to be even on a Level; he ſubmits to come to the worſt, only with this Proviſion, that he be not given up to the Paſſion and Cruelty of

Sextus

Sextus Nævius, together with his Eſtate, his Reputation, and all his Fortune.

HAVING proved, Sir, what I firſt undertook, that there was no Manner of Ground for this Petition, both becauſe no Money was owing, and tho' it had been owing ever ſo juſtly, nothing had been done by my Client, that could ſerve as a Foundation for proceeding in this Manner; give me now Leave to call for your Attention, while I prove that the Eſtate of *P. Quintius* could by no Means be ſeized by the Prætor's Edict. Read the Words of the Edict.* THE MAN WHO SHALL ABSCOND OUT OF A FRAUDULENT INTENTION. *Quintius* does not fall under this Deſcription, unleſs they be ſaid to abſcond who ſet out on a Journey on their own Affairs, after having appointed their Attorney. THE MAN WHO HAS NO HEIR. Neither is that *Quintius*. WHO IS BANISHED FROM HIS COUNTRY.

* * * * * * * * * * * *

A Chaſm.

TELL me, *Nævius*, at what Time, or in what Manner do you think *Quintius* ought to have

* *The Words of the Edict.*] There is ſome Difference here among Commentators about theſe Words of the Edict; all that is material for an *Engliſh* Reader to know, is, that it was underſtood by the *Roman* Law, that a Man might abſcond, but that it was the *Fraudationis Cauſa*, only that inferred the Penalty and the Infamy.

have been defended in his Abſence? At the Time when you put in a Petition to ſeize the Goods? Nobody was there, for Nobody could gueſs that you was to preſent any ſuch Petition, nor could it ſerve any Purpoſe to oppoſe a Thing which the Prætor had not commanded *abſolutely to be done*, but that it *ſhould be done according to the Tenor of his Edict*.

WELL then, what was the firſt Opportunity the Attorney had of defending his abſent Client? At the Time when you were proſcribing him? Why, *Sextus Alphenus* was there for that very Purpoſe. He did not ſuffer you to go on: He pulled down the Bills.* The firſt Step which it was the Duty of an Attorney to take, was obſerved with the greateſt Exactneſs. Let us ſee what happened afterwards. You ſeized a Servant belonging to *Publius Quintius* in public; you endeavoured to carry him off. *Alphenus* would not ſuffer you, he retakes him from you by Force, and ſees him conveyed back to his Maſter's Houſe. Here is another Step taken which preciſely belongs to the Duty of an exact Attorney. You ſay, that *Quintius* owes you Money; his Attorney denies he does. You want him to put in his Recognizance; he agrees to do it. You call him

This Bill.] Meaning the Bills that were put up to denote the Proſcription, ſomewhat like our advertiſing Bankrupts in the *Gazette*.

him into Court; he follows you. You crave Judgment; with all his Heart. If this be not defending a Man in his Abſence, I am ignorant what is. But who was this Attorney? Will you pretend that he was a vagabond, beggarly, litigious, trickling Fellow, one who could every Day be the ſtanding Jeſt of ſome rich Buffoon. So far from it, that he is a wealthy *Roman* Knight, a Man of great Oeconomy in his own Affairs; in ſhort, he is the Perſon whom *Nævius* always, when he went to *Gaul*, left as his own Attorney at *Rome*.

AND dare you, *Sextus Nævius*, deny that *Quintius* was defended in his Abſence, when the very Perſon who defended him uſed to defend you? When the very Perſon who ſtood Judgment for *Quintius* was he, to whom, when you went from *Rome*, you uſed to recommend and entruſt your Eſtate and Reputation? Shall you then pretend to ſay that nobody appeared to defend *Quintius* in Court? *I required him*, ſays he, *to put in Bail.* The Requeſt was unjuſt; * it appear'd ſo to *Alphenus*, and therefore he refuſed it. *Nay, but the Prætor ordered it.* Why, this

* *It appeared ſo.*] The Commentators have been very much puzzled about this Paſſage. In the Edition of *Grævius*, the whole of it ſtands as follows.

Poſtulabam, inquit, ut ſatiſdaret. Injuria poſtulubas, Jubebare: *Recuſabat* Alphenus. *Ita verum Prætor decernebat: Tribuni igitur appellabantur.*

Inſtead

was the very Reaſon that the Tribunes were appealed to. *Now*, ſays he, *I have you: When you have Recourſe to the Aſſiſtance of the Tribunes, you, in effect, refuſe to ſtand to Judgment, or to put in your Defence in Court.* When I conſider this Argument, I cannot imagine that a Perſon of ſo good Senſe as *Hortenſius* has, will make uſe of it. Yet when I hear that he has already advanced it; and when I conſider the Nature of the Cauſe itſelf, I cannot think of any thing elſe he

Inſtead of *Jubebare*, *Minutius* reads *Jubebat Prætor*; *Hottoman*, *Lambinus*, *Grævius*, and the *Dauphine*'s Commentator, approve of *Jubebare*, *Fregius* of *Jubebatur*; all of them being under the Miſtake that our Author ſuppoſes theſe Words to be in the Mouth of *Nævius*. I muſt however take notice, that the common Copies read *ita videbare*; in which there can be no manner of Meaning: And, as to the Alteration to *Jubebare*, it is too bold. I ſhould be therefore of the Opinion with the learned *Facciolati*, to read *ita videbat*. The Miſtake of *videbare* for *videbat* might very readily happen, by the Tranſcribers joining the firſt Syllable of the ſucceeding Word to *videbat*: But that the Reader may ſee the Senſe of our Author according to this Alteration, I will give him the whole Paſſage in a kind of Dialogue.

Nævius. *Poſtulabam ut ſatiſdaret.*
Cicero. *Injuria poſtulabas, ita videbat, recuſabat* Alphenus.
Nævius. *Ita verum Prætor decernebat.*
Cicero. *Tribuni igitur appellabantur.*
Nævius. *Te teneo: non eſt iſtud, judicium pati, neque judicio defendere, cum auxilium a Tribunis petas.*

This very ſimple Alteration, by rendering the Senſe clear and conſiſtent, prevents both the Nonſenſe of the common Reading *videbare*, and our having Recourſe to the too bold and unwarranted *jubebare*.

he can ſay. For he admits that *Alphenus* pull'd down the Bills, that he offered his Recognizance, and that he did not refuſe to abide by Judgment in thoſe very Terms that had been preferr'd by *Nævius*; provided, nevertheleſs, that according to Uſage and Practice it was to come from the Magiſtrate, to whom he is by Law directed to appeal. Either you muſt ſay theſe things are not Facts, or that ſuch a Man as *Aquilius* ſhall upon his Oath lay it down in this City as Law, That the Man, whoſe Attorney ſhall not abide by *all* Judgments, in whatever Terms they are drawn up for his Opponent's Intereſt; That the Man whoſe Attorney ſhall dare to appeal to the Tribunes of the People, that ſuch a Man is not defended; That his Goods may be legally ſeized; and that it is lawful to ſtrip ſuch a Perſon in this forlorn State, in his Abſence, and ignorant of what concerns himſelf of all his Fortunes, of all the Ornaments of Life, in the moſt diſgraceful, ignominious Manner: If this can be proved to nobody's Satisfaction, then ſurely it muſt be proved to the Satisfaction of all the World, That *Quintius* in his Abſence was defended in Court. And this being ſo, then the Goods were not ſeized by an Edict. But, ſay you, the Tribunes of the People did not ſo much as hear the Cauſe. If this was the Caſe, I admit that the Attorney ought to have ſubmitted to the

Decree of the Prætor. What if *M. Brutus* openly ſaid, that he would interpoſe, unleſs Matters were made up betwixt *Alphenus* and *Nævius*, will it then appear that the Appeal to the Tribunes was brought not in a regular Manner, but in order to favour *Quintius*?*

WHAT happened next? *Alphenus*, that all the World might ſee that *Quintius* was defended in Court, and that not the leaſt Suſpicion might lie to the Prejudice either of his own Duty as an Attorney, or of *Quintius*'s Character as a Citizen, calls in a great many Men of Credit. He deſires them to bear Witneſs in the Hearing of *Nævius*, that, in the firſt place, according to the common Friendſhip ſubſiſting betwixt them, he begs there ſhould be no Attempts to carry on any ſevere groundleſs Proceedings againſt *Publius Quintius* in his Abſence: But if he ſhould moſt ſpitefully and maliciouſly perſevere in the Proſecution, that he was ready to maintain, by all honeſt and honourable Means, that the Money ſued for was not

* *To favour* Quintius.] Becauſe *Nævius* ſaid, that the Appeal to the Tribunes was a Trick of *Quintius*; in order to elude the Execution of Judgment, in the Manner I have tranſlated it. *Cicero* by this Interrogation expoſes the Reaſoning of *Nævius*. *Lambinus* and *Grævius* read *Moræ* in the Original, inſtead of *More*. If this Alteration is admitted, then *Cicero* means the Interrogation as enforcing his own Reaſoning; and the Senſe will be, Will it then pear that this Appeal was a mere Chicane to put off Time, and not a regular Step to ſerve my Client? The Reader may take which Senſe he pleaſes.

not due, and that he would abide by the Judgment which the other had craved. A great many Men of Credit ſign'd an Inſtrument in theſe Terms and Conditions. It was impoſſible the Thing could be doubted. The Fact is, That *Alphenus* promiſes *Nævius*, that *Quintius* ſhould be forthcoming while all Matters were yet entire, and before the Goods were either proſcribed or ſeized. *Quintius* appears to his Recognizance. The Thing lies over for two Years, by the trifling Delays of *Nævius*, till ſuch Time as he found by what Means the Affair muſt get out of the common Track of Buſineſs, and the whole Matter be confined to this ſingle Point. What Part of an Attorney's Duty is it poſſible to mention, that appears to have been omitted by *Alphenus*? What Reaſon is aſſigned for denying, that *Publius Quintius* was defended in his Abſence? The ſame, to be ſure, that I imagine *Hortenſius* will advance, becauſe he has thrown it in lately, and becauſe *Nævius* is perpetually harping upon it, that *Nævius*, at ſuch a Juncture, and under ſuch a Government, ſtood a very poor Chance for Juſtice againſt *Alphenus*. Suppoſing that I ſhould admit this: Then I conceive they muſt allow, that *Quintius* was not without an Attorney, only, that this Attorney happened to be in Favour. It is enough for my Purpoſe, that there was an Attorney, with whom he could

have tried the Matter at Law. In my Judgment, it is nothing to the preſent Caſe, what the Character of this Attorney was, provided he defended his Client according to Law, and by a Magiſtrate. Nay but, ſays he, he was of that Party. To be ſure he was, the Man who was educated in *your* Houſe; the Man whom *you* had ſo trained up from a Boy, as not to yield even to a Gladiator of Quality.* *Alphenus* pleaded for the ſame Thing which you have always moſt earneſtly deſired; he has been equally zealous with you in that Matter. But, ſays he, he was intimate with *Brutus*, therefore *Brutus* interpoſed. You, on the other hand, was intimate with *Burrienus* who gave this iniquitous Decree. In ſhort, with all thoſe who at that time could do every thing by Strength and Violence, † and who dared to do all

* *Gladiator of Quality.*] Orig. *quem tu a puero ſic inſtituiſſes ut nobili ne Gladiatori quidem cederet.*

There is here a Play upon the Word *Nobilis*, and likewiſe an Alluſion to the Perſon and the Manners of *Burrienus*, which very much reſembled thoſe of a Gladiator. So that *Nobilis Gladiator*, is either a Gladiator among the Nobles, who were generally of *Sylla*'s Party, or a Gladiator of the firſt Rank in his own Profeſſion, as our Author hints *Burrienus* to have been.

† *All thoſe who at that Time could do every thing by Strength and Violence.*] All the Commentators who have touched upon this Paſſage, imagine, That our Author here means the Party of *Sylla*; becauſe, ſay they, *Burrienus* was of that Party, and *Nævius* of that of *Marius*. But this Interpretation is ſubject to unſurmountable Difficulties;

all that was in their Power to do. But you wiſhed thoſe to conquer who now labour ſo much that you ſhould be Conqueror. Don't venture to ſay this publicly, but to thoſe Gentlemen whom you have brought into Court upon this Occaſion. But I am unwilling to renew the Mention of a Thing, which, in my Opinion, ought to be abſolutely rooted up and eraſed.

I will venture to ſay one Thing; If *Alphenus* was powerful by his Attachment to his Party, *Nævius* was a great deal more ſo. If *Alphenus*, upon the Strength of his Intereſt, requeſted what was a little unjuſt, *Nævius* obtained Things that were much more ſo. For,

ficulties; becauſe at that Time, it is plain from Hiſtory, the *Marians* had the Upper-hand. *Hottoman*, to reconcile the Difficulty that is here, reads the next Period thus, *An omnes tu iſtos vincere volebas, qui nunc tu ut vincas tantopere laborant.* Thus, ſays he, it becomes a Figure of Speech, called *Antanaclaſis*; that is, where the Meaning is different from the Expreſſion, but there is no Occaſion for all this Refinement; the *Omnium denique illorum*, in the Original, refers evidently to the *Marians*, of which Party *Nævius* was, tho' afterwards he ſhamefully went over to thoſe of *Sylla*'s Party.

Our Author's Reproach here, therefore, is very ſtrong; "You are, ſays he, a Friend to the inſolent *Marians*; but you ſay, 'I ſtill in my Heart wiſh thoſe of *Sylla*'s Party to have the better:' Huſh! that Evaſion will do very well among your Friends who appear here, but if you ſhall own ſuch a Thing publicly, we could ſoon convict you of the contrary." This renders the Senſe plain and conſiſtent: I have only ventured a ſmall Alteration of *At* for *An*; both becauſe it is much more agreeable to *Cicero*'s Manner of ſpeaking, and more conſiſtent with his Reaſoning.

in my Conception, there was no Difference in your Zeal, tho' you outdid him in Capacity, Experience and Craft. In ſhort, it is ſufficient to ſay, that *Alphenus* was deſtroyed with and for the Man he loved; but after your Friends could not get the better, you took care to make Friends of thoſe who did. But if at that Time you thought you had not an equal Chance with *Alphenus*, becauſe it was in his Power to appeal to a certain Magiſtrate * againſt you, becauſe a certain Magiſtrate was found who would give the Plea of *Alphenus* a fair Hearing, what Meaſures is *Quintius* to purſue on this Occaſion? He who as yet has neither found an equitable Judge, nor has obtained the ordinary Verdict, who has neither had the Advantage of any Terms, any Bail, or any Petition; I don't mean a *juſt* one, but that ever had been heard mentioned before this Time. I deſire to try an Affair of Money; *You are not at Liberty:* But that is the Point in Queſtion. *I don't mind that, you muſt plead to a capital Proſecution.* Well, ſince it muſt be ſo, lay your Charge: *That I won't*, ſays he, *unleſs you, contrary to all Precedent, firſt make your Defence. You muſt plead, the Time muſt be fix'd to*

* *Certain Magiſtrate.*] In the Original, *Quia tamen aliquem contra te advocare poterat. Tamen* here ſeems to be an Expletive, as he ſays above, *Bonis ſuis utitur, hoc tamen in miſeriis ſolatio ſublevatur.*

to our Contentment? the Judge himself shall be summoned? What then? *shall you be able to find any Counsel so disinterestedly honourable, as to despise our pompous Appearance, and great Interest?* Lucius Philippus,* *a Man in the highest Esteem for his Eloquence, his Weight, and for his Rank in the State, will act strenuously for me.* Hortensius, *so eminent for his Abilities and Character, will plead for me. Men of the noblest Birth, and most powerful Interest, will appear for me: Men whose Numbers and Appearance will not only make* Quintius *tremble, who pleads to a capital Prosecution, but every Man who is even out of Danger.* This, and not that in which you wrangled with *Alphenus*, is the unequal Struggle. You did not leave him a Place where he could appear to Judgment. You must therefore either make it appear, that *Alphenus* denied himself to be the Attorney, that he did not pull down the Bills, that he refused to abide by Judgment; or, if you admit all these, you admit that you did

* *Lucius Philippus.*] Our Author gives this Lawyer the following Character in his *Brutus.*

Sed tamen erant ea in Philippo, *quæ qui sine comparatione illorum spectaret, satis magna diceret; summa libertas in Oratione, multæ facetiæ; satis creber in reperiendis, solutus in explicandis sententiis; erat etiam in primis, ut temporibus illis, Græcis doctrinis institutus; in altercando cum aliquo aculeo & maledicto facetus.* He likewise probably was the same *Philippus*, of whom *Horace* says,

Strenuus & fortis, causisque Philippus *agendis*
Clarus——

did not ſeize the Effects of *P. Quintius* by any Edict.

FOR if you ſeized them by an Edict, give me Leave to aſk you why the Goods were not ſold? Why did not others, who were his Bail and Creditors, have a Meeting? Was there no body elſe to whom *Quintius* was indebted? Believe me a great many; becauſe his Brother *Caius* had left ſome Debt when he died. What then was the Reaſon? All of them were entirely Strangers to him, and he owed them Money, and yet there was not a Man among them not ſo eminent a Scoundrel, as to dare to wound the Reputation of *Quintius* in his Abſence. There was one Perſon indeed, *Sextus Nævius*, his Kinſman, his Partner, his Friend, one who was even indebted to him, who moſt eagerly contended as if he had been to win a mighty Prize of Infamy, that he might deprive his Kinſman, ſunk and ruined by his means, not only of thoſe Effects which he had honeſtly come by, but of that Light which is common to all Mankind. Where were the other Creditors at that Time? Nay, where are they now? Where is the Man who ſays that *Quintius* abſconded to defraud his Creditors, or that he was not defended in his Abſence? None. On the other hand, every Man who either had then, or has now an Account with him,

him, appears in Court in his Defence, and takes all the Pains he can, that his univerſally eſtabliſhed Credit may receive no Diminution from the Treachery of *Sextus Nævius*. In a Trial of this Nature, Witneſſes ought to have been brought from amongſt them, and each of them to have ſaid, He has not appeared to his Recognizance with me; he has cheated me; * he begg'd a Day of me for the Payment of a Debt, ſays another, which he had denied. I could never have him ſummon'd, ſays a fourth, for he kept out of the Way, without leaving any Attorney. But we don't hear a Word of all this, they are preparing Witneſſes to affirm it.

BUT we ſhall conſider of that, when they have given in their Evidence. Give me Leave, however, to recommend one Thing to their Conſideration, that the Weight that is due to their Evidences, can only be preſerved by their preſerving a Regard to Truth; but if they ſhould neglect Truth, their Evidence would become

* *He begg'd.*] In the Original, *Vandimonium mihi deſeruit; me fraudavit; a me nominis ejus, quod inficiatus eſſet, diem petivit.* This Paſſage may be underſtood in two Senſes; the firſt is *Hottoman*'s, who thinks the Senſe to be, that after I proved a Debt which he denied, and was ready to obtain Judgment in my Favour, he begged that I would ſtop Proceeding, and allow him a farther Term of Payment. *Grævius* agrees to this Senſe. The other is, that he begged that I would put off my obliging him to appear in Court for ſome Days. Either of the Senſes will do.

become ſo ſlight, as to be a Proof to all the World, that a Friend's Character can be effectual only for proving the Truth, and not for ſupporting a Lie.

I will take the Liberty to put only theſe two Queſtions. In the firſt Place, By what means did it happen, that *Nævius* did not compleat his Buſineſs? I mean, why he did not ſell thoſe Goods that he had ſeized by an Edict? Secondly, Why not one out of all my Client's other numerous Creditors, not a ſingle Man, came on that Account? So that you muſt neceſſarily admit, that there was not a Man among them ſo raſh, and that you yourſelf was unable to carry thro' and compleat * the dirty Affair you had taken in hand.

BUT, *Sextus Nævius*, what if from your own Determination it ſhould appear, that the Effects of *Publius Quintius* were not ſeized by an

To carry thro' and compleat.] In the Original, *Neque eorum tam temerarium quemquam fuiſſe, neque teipſum id, quod turpiſſimum ſucepiſſes, preſervare, & tranſigere potuiſſe.* It is ſuprizing, that ſo learned a Man as *Grævius* ſhould endeavour to perſuade his Readers, upon the Authority of two Writers, who lived and wrote when the Purity of the *Roman* Diction was gone, that *Cicero* would uſe *perſeverare* as an active Verb governing the Pronoun *id*. *Id perſeverare*, he tells us, is the ſame Thing with what we commonly ſay, *In eo perſeverare*. *Facciolati* very rightly thinks, that our Author makes uſe here of the Figure of Speech called *Zeugma*, by which the Verb *perſeverare* is underſtood abſolutely, and the Pronoun *id* is governed by the Verb *tranſigere*.

an Edict? I muſt conceive, that tho' your Evidence would have but little Weight in a Matter indifferent to you, yet that ſame Evidence has the greateſt in an Affair of your own, becauſe it makes againſt yourſelf. You bought the Eſtate of *Sextus Alphenus* of the Dictator, *L. Sylla*; you entered *Quintius* in your Books as your Partner of this Eſtate. I ſay no more. Can we imagine that you entered into a voluntary Partnerſhip with the Man, who had defrauded you in an hereditary Partnerſhip? Did you in your private Judgment approve, as unexceptionable, the Perſon whom you thought ſtript of his Reputation, and all his Fortune? By Heavens, Sir, I was under a Doubt, that I could not have Reſolution and Courage enough to ſtand my Ground in this Cauſe. I was apprehenſive, that as *Hortenſius* was to plead againſt me, and *Philippus* was to ſit attentively by, that Fear might make me faulter in abundance of Circumſtances. I uſed to ſay the ſame to *Quintus Roſcius*, whoſe Siſter is the Wife of *Publius Quintius*, when he begg'd with the greateſt Earneſtneſs, that I would defend his Kinſman; that it was exceeding difficult for me to plead ſo great a Cauſe, nay, ſo much as to open my Mouth againſt ſuch Orators. When he inſiſted ſtill more earneſtly, I opened my Mind to him with greater Freedom, as he was my Friend,

and

and told him that a Man muſt be a very impudent Fellow indeed, who ſhould make any Attempt to act when he was by: But that they who preſume to rival him, loſt all the Skill and Gracefulneſs they ſeem'd to poſſeſs before, and that I was afraid ſomething like that might be my own Caſe, as I was to ſpeak againſt ſo great an Artiſt: Then *Roſcius* threw in a great many Arguments to perſuade me; and, by Heavens, tho' he had not ſpoke a Word, yet the ſilent Expreſſion of his Duty and Zeal towards his Kinſman, was ſufficient to have moved a *Barbarian*: For tho' his Skill is ſuch,* that

* *For tho' his Skill is ſuch*] This is a Part of that fine manner of ſpeaking, which has diſtinguiſhed our Author from all other Writers either ancient or modern. Tho' I am far from thinking, that Figures of Speech, and fine Language are alone ſufficient to form a good Orator; yet we may ſay of this, as our Author ſays of Education, in his Oration for *Archias*, See *Vol.* 1. *P.* 141. That when they were join'd to good Senſe and noble Sentiments, *then ſomewhat inexpreſſibly beautiful, ſomething inimitably excellent is ever the Conſequence.*

As our Author ſeems to be particularly fond of this Figure, I will for the ſake of my young Readers, and to prevent a Multiplicity of Notes upon this Subject, give him two or three Inſtances, in which he uſes the ſame Figure, the right Study of which Paſſages will be of more uſe to him, than the moſt elaborate Rules of Grammarians.

In *B.* 3d, againſt *Verres*, ſpeaking of one *Chilo* an Evidence, he ſays, *Qui iſti ita amicus, et neceſſarius eſt, ut, etiamſi vir bonus non eſſet, tamen quod contra iſtum diceret, grave videretur; ita vir bonus eſt, ut etiamſi inimiciſſimus iſti eſſet, tamen ejus teſtimonio credi oporteret.*

In

that he ſeems the only Man worthy to tread the Stage, yet his Life is ſo amiable, that he alone appears worthy to be exempted from that Profeſſion. But then, ſays he, ſuppoſing you had a Cauſe, in which you were to make it appear plainly, that no Man is able to walk ſeven hundred Miles in two or three Days; Would you be afraid to maintain ſuch a Point againſt *Hortenſius*? By no Means, anſwered I. But what is this to your Purpoſe? Why, ſays he, the whole Affair turns upon that. How? He then informs me of a plain Fact of that Kind, and of ſuch a Proceeding of *Sextus Nævius* as ought to be ſufficient, were there no other Proofs produced. Therefore, Sir, I beg of you and your worthy Aſſociates, an earneſt Attention to this Matter. Give me Leave to ſay, you will be convinced, that from the very Beginning of this Affair, Paſſion and Audaciouſneſs has combated on the one Side, and Truth

In his Oration for *Cæcina*, ſpeaking of *Aquilius* the Lawyer, he has the following Words, *Qui ita juſtus, & bonus vir eſt, ut natura, non diſciplina, conſultus eſſe videatur; Ita peritus, ac prudens, ut ex jure civili non ſcientia ſolum quædam, verum etiam bonitas nata eſſe videatur.*

In his Epiſtle to his Brother *Quintus*, Epiſt. 1. Book 1. *Cujus Natura talis eſt, ut etiam ſine doctrina videatur moderata eſſe potuiſſe, ea autem adhibita doctrina eſt quæ vitioſiſſimam naturam excolere poſſit.*

In one of his Epiſtles to *M. Brutus*, ſpeaking of *Valerius Meſſala. Tanta induſtria eſt tantumque evigilat in ſtudio; ut non maxima ingenii quod in eo ſummum eſt, gratia habenda videatur.*

Truth and Modeſty have to the utmoſt of their Power reſiſted on the other.

You petition to have Leave to ſeize the Goods by Edict. On what Day? I want to hear yourſelf ſpeak, *Nævius*; I want it to be proved by the Mouth of the very Man who has acted in ſuch an unprecedented Piece of Villany. Say, *Nævius*, mention the Day. The 9th of *February*. That's right. How far is your *Gallick* Eſtate from hence? I aſk yourſelf, Sir, Seven hundred Miles. Right again. *Quintius* was ejected out of the Eſtate! Upon what Day? Pray, Sir, favour us with an Anſwer to that too. What, mute! I ſay, name the Day. The Man's aſhamed to do it. I underſtand you. But his Modeſty at preſent is both unſeaſonable and unprofitable. He was ejected, Sir, out of the Eſtate on the 12th of *February*. *Two* Days after, when ſuppoſing any one had inſtantly run from the Court, it had been impoſſible to have reached ſeven hundred Miles in *three* Days. How miraculous was this Diſpatch! How blindfold this Paſſion, and how nimble-footed this Meſſenger! The Servants and Attendants of *Sextus Nævius* can run from *Rome*, over the *Alps*, and reach *Lyons* in three Days. What a happy Man is he to have ſuch Meſſengers, or rather ſuch flying Horſes at his Command? Here ſuppoſing that all the *Craſſi*

and

and *Antonii*, whoever lived, were to ſtart up; ſuppoſing that you *L. Philippus*, who flouriſhed along with them, were to plead this Cauſe, together with *Hortenſius*, yet here I muſt have the better. For you are miſtaken, if you think that every thing conſiſts in Eloquence. There are certain Truths ſo plainly convincing, that they can be invalidated by nothing. Give me Leave to aſk you, whether before you petitioned for Leave to ſeize the Goods, you ſent People beforehand, to take Care that the Proprietor ſhould be forcibly ejected from his own Eſtate, and by his own Family? Take your Choice: The one Caſe is contrary to Credibility, the other to Honeſty; and both hitherto unprecedented. Will you maintain that a Man could run ſeven hundred Miles in two Days? Speak out. You ſay, No. Then you ſent beforehand. So much the better for me. For if you ſhould inſiſt upon the former, you muſt appear an impudent Lyar: But when you admit of the latter, you make a Conceſſion that you have done what cannot be palliated even by a Lie. Will ſo paſſionate, ſo raſh, ſo audacious a Step, meet with Countenance from *Aquilius* and his worthy Aſſociates? What does this Rage, this Hurry, this Prematureneſs, intimate? Does it not denote Violence, Villainy, and Robbery? In ſhort, every thing rather than Law, Duty and Modeſty. You ſent with-

out the Prætor's Order: With what View was that? Did you know he would order it? How! Could you not have ſent off after obtaining the Order? You was to have moved for Poſſeſſion; but when? Thirty Days after. Yes, provided nothing ſhould hinder you, provided you remained in the ſame Thought, if you was in Health; in ſhort, if you was alive. * But the Prætor would have given his Order. But I humbly conceive,

* But the Prætor would have given his Order: But I humbly conceive that was only if he pleaſed, if he was in Health, and upon the Bench, if nobody ſhould demur by giving Surety in Terms of his Decree, and offer to ſtand to Judgment.

Orig. *Prætor juſſiſſet; opinor, ſi vellet, ſi valeret, ſi jus diceret, ſi nemo recuſaret, qui ex ipſius decreto et ſatiſdaret & judicium accipere vellet.*

Lambinus, *Poſſeratius*, and *Grævius* have followed one another contrary to all Manuſcripts and Copies, by reading, *Si nemo recuſaret* QUIN. But this is abſolutely contrary to our Author's Senſe, becauſe it would make him ſay, *The Prætor ordered if any body was willing to put in Bail and ſtand to Judgment*, &c. whereas the true Caſe was this. The Prætor had ordered that *Quintius*'s Goods ſhould be attached, if there was nobody found to oppoſe this Decree by putting in Bail, and offering to ſtand Judgment. This being the true State of the Caſe, *Lambinus*'s Reading muſt appear very ridiculous, and indeed neither agreeable to Senſe or Language; becauſe by reading *Quin* inſtead of *Qui*, the Sentence muſt ſtand thus, *Si nemo recuſaret quin ſatiſdare vellet*; whereas the Uſage of the *Latin* Tongue requires, *ſi nemo recuſaret, quin ſatiſdaret*. And *Lambinus* himſelf ſeems to have been ſenſible of this, by ſinking the Word *vellet*. The Reader will pleaſe to obſerve, that the Word *recuſare* was a Civil Law Term, which removes the Objection of *Lambinus* as to the Propriety of Language.

conceive, that was only if he pleaſed, if he was in Health, and upon the Bench, if nobody ſhould demur, by giving Surety in Terms of the Decree, and offer to ſtand to Judgment. For, ye Immortal Gods! if *Alphenus*, the Attorney of *Publius Quintius*, had then offered you Security, and been willing to ſtand to Judgment; in ſhort, if he had done every thing that you required, how could you have proceeded? Would you have recalled the Perſon whom you had diſpatched to *Gaul*? But *Quintius* was by this Time driven from his Eſtate. By this Time he was driven headlong from his own domeſtic Deities; by this Time he had the cruel Indignity offered him, of being violated by the Hands of his own Slaves, by your Meſſage and your Order. To be ſure you could have ſet all to Rights afterwards! And ſhall you preſume to attack the Life of any Man? You who are firſt forced to admit, that you was ſo blinded by Paſſion and Avarice, as to found your Hopes of a preſent bad Action upon an uncertain future Event, tho' you was entirely ignorant of what might happen; and a great many Things might have happened. But all this I ſpeak upon a Suppoſition,* that

* But all this I ſpeak upon a Suppoſition, that at the very Time, after the Prætor had ordered you by his Edict to ſeize the Goods; if you had ſeized them, that you either

at the very Time after the Prætor had ordered you, by his Edict, to ſeize the Goods, if you had ſeized them, that you either ſhould or could have ejected *Publius Quintius* from his Poſſeſſion.

THE whole Circumſtances, Sir, of this Caſe are ſuch, that any Man may eaſily ſee a knaviſh Intereſt contending with indigent Truth. In what manner did the Prætor order Poſſeſſion? By his Edict, to be ſure. What are the Conditions of the Depoſite? UNLESS BY THE PRÆTOR'S EDICT THE EFFECTS OF *Publius*

either ſhould or could have ejected *Publius Quintius* from his Poſſeſſion.

Orig. *Atque hæc perinde loquor, quaſi illo ipſo tempore cum te Prætor juſſiſſet ex edicto poſſidere, ſi in poſſeſſionem miſiſſes, debueris, aut potueris,* P. Quintium *de poſſeſſione deturbare.*

This is a very difficult Paſſage, and none of the Interpreters but *Hottoman,* have cared to meddle with it; but I don't approve (however unwilling I am to differ from him, eſpecially in any thing relating to Law) of his Interpretation.

In Caſes of this Sort, there was a firſt and ſecond Decree of the Prætor; by the firſt, he put the Party in a Power to poſſeſs, and by the other he gave him Leave actually to poſſeſs; which two Forms are uſed promiſcuouſly by Orators. The firſt Decree was granted with a Power to detain the Goods, as appears both from the very Words of the Decree cited by *Cicero,* and likewiſe from *l.* 12. *D. quibus ex cauſis.*

Cum bona poſſidere Prætor permittit, non poſſidemus, ſed magis cuſtodiam rerum et obſervantiam nobis concedit; that is,

" When the Prætor gives Leave to ſeize the Goods, we " do

lius Quintius ARE NOT SEIZED. Let us now ſee the Edict. In what manner does this order Poſſeſſion? Can it be diſputed, Sir, if this Perſon ſeized in Terms far different from thoſe preſcribed by the Prætor, that he did not then poſſeſs according to the Edict, and that I have caſt him in this Trial? I will venture to ſay it cannot. Let us conſider the Words of the Edict. THEY WHO BY VIRTUE OF MY EDICT SHALL COME INTO POSSESSION. He ſpeaks of you, *Nævius*, in your own Opinion: For you ſay, that you came into Poſſeſſion by virtue of an Edict. He points out what you are to

" do not ſeize them; for he rather puts them into our " Cuſtody and Keeping.

The ſecond Decree was granted with a Power of actually poſſeſſing and ſelling the Goods; and he who entered into Poſſeſſion, in conſequence of this laſt, was called the *Poſſeſſor by Law*, as he who entered upon them by virtue of the firſt was termed the *Poſſeſſor in Fact*, as *L.* 3. *Sect. ult. de acquir. Poſſ.* *Nævius* therefore, as he had only obtained the firſt Decree, could not eject *Quintius*; but was only to be put in joint Poſſeſſion with him to ſecure and detain the Effects, till having for thirty Days ſucceſſively publiſhed Bills or Writs of Attachment, and no Security for Redemption being given, he might claim the ſecond Decree, to empower him to enter upon the actual Poſſeſſion of *Quintius*'s Effects, and ſell them.

Now let us hear *Hottoman* upon this: *In ſuch Caſes as this*, ſays he, *wherein a Power was granted to take Poſſeſſion upon the Defendants abſconding, it was uſual to paſs one Decree*, according to *Ulpian* in *L. Fulcinius*.

Therefore, continues he, *thoſe Words of* Cicero, QUI FRAUDANDI CAUSA LATITET, are to be underſtood, *not as founded upon Civil Law, but only an Artifice*

of

to do; he inſtructs, he directs you. IT IS ORDERED THAT THEY OUGHT TO BE PUT INTO POSSESSION THUS. How? WHAT THEY CAN EASILY SECURE UPON THE PREMISSES, LET THEM SECURE ACCORDINGLY; WHAT THEY CANNOT, IT SHALL BE LAWFUL FOR THEM TO CARRY OFF AND LEAD AWAY. What follows? IT IS NOT OUR PLEASURE, ſays he, THAT THE PROPRIETOR SHOULD BE TURNED OUT AGAINST HIS

of the Orator; ſince it is a Contradiction to ſuppoſe that it might be allowable by Law to put a Man's Goods to Sale, when at the ſame time they had not a Right to eject him. Thus he has Recourſe to the never-failing *Salvo* of *Artificium Rhetoricum*, which I have already taken Notice of.

But indeed it would be carrying the Matter too far, to ſuppoſe, that *Cicero* would take the Liberty as an Orator, to urge an Argument ſo forcibly and plainly in Contradiction to Truth, againſt the expreſs Tenor of the Law, and againſt the very Words of the Decree, *before ſuch a Judge*, and when engaged with ſuch Adverſaries; for at that Rate there could be nothing ſo *extravagant*, but they might find a *Salvo* for *Oratorial Licence.*

But if *Hottoman* grounds his Suppoſition only upon the *Fulcinian* Law, and that in ſuch Caſes of *abſconding*, the firſt Decree is ſufficient for granting Poſſeſſion, with a Power of Sale, and that conſequently the ſecond *Decree* was not neceſſary; our Author's Friends need not have Recourſe to that Subterfuge; he is clear and conſiſtent: For *Bruneman* in his Explication of this Law ſays, *in* Sect. 1. *The Lawyer begins to treat of the* SECOND DECREE, *to which all the following Clauſes in this Law are to be referred*, only we muſt except the laſt Clauſe upon which *Bartolus* ſays, *The Prætor may decree, that in Caſes where the Party is contumacious, he that obtains the firſt Decree may act, as if he had obtained the ſecond. Bruneman* underſtands the Party being

HIS WILL: Meaning that not even the Poſſeſſor * who abſconds out of a fraudulent Intention; the Poſſeſſor whom nobody defends in the Trial, the Poſſeſſor who deals knaviſhly with all his Creditors; it is not lawful to eject even ſuch a Poſſeſſor againſt his Will. The Prætor himſelf, *Sextus Nævius*, told you plainly as you was going to attach the Goods, you may attach them, but ſo as that *Quintius* may have Poſſeſſion of them along with you: You

being contumacious to mean, when the Proprietor refuſes to appear upon being cited.

What becomes now of *Hottoman*'s Support from the *Fulcinian* Law; Is it becauſe there is no mention made of the *firſt and ſecond Decree*, but only of *Poſſeſſion and Sale together?* The Words of *Amadæus Echoltius* come in here very opportunely; upon the Pandect, *l.* 39, *l.* 2.

This Diſtinction, ſays he, *of the firſt and ſecond Decree, obtains even in other Caſes in our Law, beſides in that of a* Damnum infectum. *For tho' there be no Mention of a ſecond Decree; in other Cauſes, it is evident that the Force of it is always implied.*

But what if we ſhould even find *Hottoman* contradicting himſelf? as in his Commentary, *Ad Tit. c. de Jud. l.* 11. where he has theſe Words. *The firſt Decree was that by which the Creditors were granted Poſſeſſion of the Effects for thirty Days, as* Cicero *ſhews in his Oration for* Quintius, *but gave them no further Power, but to attach them.* After this he ſpeaks of the ſecond Decree; and, which is very ſtrange, adds even a third, contrary to the received Opinion among Lawyers. But this we have nothing to do with; ſo it be only granted us, that the Words of *Cicero* are not repugnant to Civil Law.

* *The Poſſeſſor who abſconds.*] *Hottoman* tells us here, that *Cicero* ſpeaks this not from the Civil Law, but, ſays he, *ex artificio Rhetorico*; but in Anſwer to that, ſee the laſt Note.

may attach them, but you are not to deprive *Quintius* of his Right. But how have you obſerved this Injunction? I won't urge that *Quintius* was a Perſon who had never abſconded; one who had a Houſe, a Wife, Children, and an Attorney at *Rome*: That he was one who had not forfeited his Recognizances by Non-appearance; I will only affirm that the Poſſeſſor was ejected out of his Eſtate; that the Poſſeſſor had violent Hands laid upon him before the Altars of his own Family by his own Slaves: This I affirm. * * * * * *
* * * * * * * * * * * * *

A Chaſm here.

THAT *Nævius* never ſummoned *Quintius* tho' he was every Day in his Company, and had daily Opportunities of ſuing him: I ſay, that he choſe to go thro' all the moſt troubleſome Proceedings, to the great Diſreputation of his own Perſon, and the great Danger of *P. Quintius*, rather than join Iſſue upon that pecuniary Action, which might have been determined in one Day; and an Action too from which he admits all this Proceſs to have ſprung and proceeded: On that Occaſion I offered, if he was determined to ſue for his Money, that *P. Quintius* ſhould put in Bail to ſtand Judgment; provided if *Quintius* had any Demands upon *Nævius*, the latter would come into the

ſame Meaſures. I have ſhewn how many previous Steps ought to be taken, before one ſues for an Attachment againg the Effects of a Kinſman; eſpecially as he has a Houſe, a Wife, and a Family at *Rome*, and an Attorney who is alike the Friend of both Parties. I have ſhewn you, that at the Time he ſays the Recognizances were forfeited, no Recognizances had been entered into; that on the Day on which he ſays my Client promiſed to him, my Client was not at *Rome*. I have engaged to make it appear by Witneſſes, who both had a Reaſon for being informed of the Fact, and could be under no Influence to falſify their Evidence. As to his poſſeſſing the Goods by Edict, I have demonſtrated there could be no ſuch Thing, becauſe my Client had neither abſconded from a fraudulent Intention, nor was he reported to have fled his Country.

I COME next to ſpeak to the Allegation of his not being defended in Court. In Anſwer to this, I inſiſted that he had been moſt ſtrenuouſly defended, and that not by a Stranger, nor by any ſcoundrel, ſneaking Fellow, but by a *Roman* Knight, his Friend and Relation, and one whom *Sextus Nævius* himſelf uſed to appoint as his Attorney in his Abſence; that if he appealed to the Tribunes,

Tribunes, it was no Proof, that therefore he was not ready to ſtand to the Judgment of the Court; or that *Nævius* had been deprived of his Right, thro' the powerful Intereſt of my Client's Attorney, that on the other Hand, the Intereſt of him, *Nævius*, prevailed ſo much, that he ſcarce gives us now the Liberty of breathing.

I ASKED him the Reaſon why the Goods were not ſold, when they were ſeized by Edict? I then put a ſecond Queſtion to him, by what Means it happened, that from among ſuch a Number of Creditors, not a ſingle Man amongſt them acted as he had done, nor even to this Day ſues *Quintius?* Nay all of them ſtrive to ſerve him to the beſt of their Power. This was remarkable, ſince in an Action of this Nature, the Evidence of Creditors is thought extremely material. I afterwards urged the Teſtimony of our Antagoniſt himſelf, who but very lately took into Partnerſhip the Perſon, who, according to the Manner he now proceeds in, he demonſtrates was not then among the Number of the Living. I then inſtanced that incredible Celerity, or rather Audaciouſneſs; I proved to him, that they muſt either of Neceſſity have travelled ſeven hundred Miles in two Days, or that *Sextus Nævius* had entered into Poſſeſſion ſeveral Days before he had petitioned for Leave to attach the Effects.

I THEN repeated the Edict, which in expreſs Terms diſapproves of ejecting the Poſſeſſor from the Eſtate: By which it appeared, that *Nævius* had not entered into Poſſeſſion in Terms of that Edict, becauſe he confeſſes that *Quintius* was forcibly driven out of his Eſtate. At to the Effects, I laid it abſolutely down, as a Principle that they had not been ſeized, becauſe the ſeizing of Goods has Regard not to a * partial Seizure of them, but to a total Seizure of all, of all that the Party either holds, or poſſeſſes at the Time. I ſaid that my Client had a Houſe in *Rome*, and which he, *Nævius*, had not ſo much as come near; ſeveral Slaves of whom he had not ſeized, or ſo much as touched one; that one indeed he had attempted to lay hold of, but that he was hindered, and that he has never meddled with them ſince.

You know, that in *Gaul* itſelf, *Sextus Nævius* has not entered into the perſonal Eſtates of *Quintius*, and that the private Slaves of *Quintius* had not all of them been ejected out of that very Eſtate which *Nævius* now poſſeſſes by the violent Expulſion of his Partner. From

* *Partial Seizure.*] This appears to have been a Caſe of Bankruptcy among the *Romans*, in which the whole Eſtate was ſeized upon by him who took out the Statue; and then all the other Creditors were ſummoned to be preſent at the Auction, and receive their Dividend upon the Sale.

From this, and from the other Words, Actions, Expreſſions, and Intentions of *Sextus Naevius*, any one may eaſily ſee that he has no other View in all that he has done, and in all that is doing now, than thro' Violence, Injury, and the Perverſion of Equity, to appropriate to himſelf all the Eſtate which belongs in common to both.

HAVING finiſhed my Pleading,* Sir, upon the Merits of this Cauſe, the Nature of the Thing itſelf, and the Greatneſs of the Danger, makes it indiſpenſible for *Publius Quintius* to implore and beſeech you and your Aſſociates on that Bench by his deſtitute old Age, that you will only follow the Biaſs of your own Inclinations and Clemency; That as he has Truth on his Side, his Wants may be more powerful Motives to incline you to Compaſſion than his Adverſary's Intereſt to lead you into Cruelty. And the Day we appear'd before you as our Judge, on that Day we begun to deſpiſe thoſe Threatnings, at

* *Having finiſhed my Pleading.*] Orig. *Cauſa perorata.* This Paſſage is very well worth obſerving, for it is plain from hence, that *Cicero* looks upon this Cauſe as being now *perorata*, and that the Recapitulation immediately preceding is in effect the *Peroration.* He had ſaid in the End of this Partition or Diviſion of Heads, See *Page* 302, *Hæc a cum docuero perorabo.* So that here he cloſes the Oration with another Member which is called *Amplificatio.* As to our Author's Opinion of this, See *De Oratore*, B. 2. c. 19.

at which we trembled before. Had the only Struggle been betwixt the Merits of the two Cauſes, we thought we could eaſily have made our Point good, before any indifferent Judge; but as the Contention regarded their different Characters in Life, we, for that Reaſon, thought we had the greater Occaſion to have you for our Judge. For the Thing now in Diſpute is, whether this clowniſh, uncouch, mean Appearance can defend itſelf againſt Luxury and Licentiouſneſs, or whether homely, ſtrip'd and naked as you ſee it is of all Ornaments, it is to fall a Sacrifice to Revenge and Inſolence.

Sextus Nævius, my Client does not vie with you in Intereſt, in Power, or Abilities; he yields to you in all your own Arts, of which you are ſo conſummate a Maſter. He acknowledges, that he has not the Gifts of Elocution, nor can he inſinuate himſelf by Adulation; that he cannot deſert a Friend when borne down, nor perch upon the bloſſoming Fortunes of another; that he cannot live in the Profuſion of Expence, nor ſet out a Board magnificently and elegantly furniſhed; that he has not a Houſe ſhut to the Purity and Sanctity of Manners, but *inviting* and *open* to Luſt and Debauch. On the contrary, Reſpect, Honeſty and Induſtry, with a Life that has been always unfaſhionable and unpleaſing, has been all his

his Enjoyment. He is ſenſible that the other Recommendations are ſuperior to theſe, and far more prevalent in this Age, than all his Morals.

BUT prevalent as to what? Not to that Degree, as that they who abandon the Practice of the Virtuous, and choſe to follow the Profits and Expences of a *Gallonius*,* ſhould domineer over the Lives and Fortunes of the beſt of Mankind; tho' they have even lived with an Impudence and Treachery not to be found in the Character of *Gallonius* himſelf. If the Man may live, whom *Sextus Nævius* has doomed to Deſtruction; if there is Room, in this City, for one whom *Sextus Nævius* proſecutes; if it is lawful for *Publius Quintius* to breath, in Contradiction to the Power and Nod of *Nævius*; if, under your Protection, he can make good his Right, againſt Inſolence, to thoſe Ornaments which he has acquired by Modeſty; there are ſtill Hopes, that wretched and unhappy as he is, he may yet

* *Gallonius.*] This *Gallonius* was a famous Cryer, the ſame Profeſſion with *Nævius*, and remarkable for his Profuſion and Luxury. He is mentioned by *Horace. Sat.* 22.

Galloni præconis erat acipenſere menſa Infamis. And by our Author in his Book *De Finibus*, in a Quotation from *Lucilius*:

We are told by the Dauphin's Commentator, that *Gellius* ſays *Quintius* was acquitted, and that *Cicero* gained the End of his Pleading. But after the ſtricteſt Enquiry, I can find no ſuch Paſſage in *Gellius*.

yet live in quiet: but if *Nævius* has it both in his Power to compaſs what he luſts, and if he luſts after what is not lawful, what ſhall he do? To what immortal Power ſhall he appeal? To what human Aſſiſtance ſhall he implore? In ſhort, what Complaint, what Affliction, can be found adequate to ſuch Calamity?

It is woeful for a Man to be driven from all his Fortunes, but the Woe is increas'd, if by Wrong. It is galling to be circumvented by any Man, but more galling, if by a Kinſman. It is cruel for a Man to be ſtrip'd of his Eſtate, but more cruel, if with Diſgrace. It is horrible to be killed by the brave and virtuous, but the Horror is enhanced if by one whoſe Voice has been proſtituted to the Employment of a Cryer: It is mortifying to fall by our Equal or Superior, but more mortifying, if by one inferior to, or one meaner than one's ſelf. It is mournful to have one's Perſon and Eſtate delivered over to another, but more mournful, if to a Foe. To plead for one's Life is an *awful* Circumſtance, but to plead before one hears the Charge is *terrible*.

Quintius, Sir, has ſurveyed, he has attempted every Thing; he was not only unable to find a Prætor to order him a Hearing, far leſs to be heard upon his own Terms, but

but he could not even prevail with the Friends of *Sextus Nævius*, before whose Feet he often and long proſtrated himſelf, conjuring them by the immortal Gods, that they would either deal with him according to Law, or that they would ſuffer him to undergo the Loſs, without the Ignominy.

AT Length he preſented himſelf before the haughty Eyes of his Enemy *Sextus Nævius* himſelf; with Tears did he ſeize his Hand; that Hand practiſed in proſcribing the Eſtates of his Kinſman; he implored him by the Aſhes of his dead Brother, by his Wife and his Children, whoſe neareſt Relation *Publius Quintius* is, that he would at Length ſuffer Compaſſion to touch his Breaſt; That he would have ſome Regard, if not to his Relation, at leaſt to his Age; That if he felt no Sentiments of Compaſſion for his Perſon, he would at leaſt indulge ſome Senſe of common Humanity, and that he would put an End to the Matter upon Terms, at leaſt, ſomewhat tolerable, without impairing his Reputation.

BEING rejected by him, unrelieved by his Friends, harraſs'd and brow-beat by every Magiſtrate, whom to apply to beſides yourſelf, he has none. To you he commits himſelf, all his Eſtate, and all his Fortunes; with you he entruſts all the future Reputation and Hopes of his

his Life: Oppreſs'd with many Indignities, harraſſed with many Loſſes, he flies to you, not in *Meanneſs*, but in *Miſery*; and though driven from a wealthy Eſtate, and perſecuted by Infamy of every Kind, yet while he ſaw *Nævius* the Maſter of all his parternal Eſtate, and himſelf unable to give a Fortune to his Daughter who is marriageable, he has ſtooped to nothing that might reflect Diſhonour upon his paſt Life.

THEREFORE he implores you, *Aquilius*, that the Reputation and Credit he has brought into your Court in an Age which has almoſt reached the Goal of Life, the ſame he may be ſuffered to carry away out of this Place: That he, who has hitherto borne an univerſally undoubted Character, may not in his Sixtieth Year be branded by an ignominious, an infamous, and an indelible Stain: That *Nævius* may not diſgrace all his Ornaments, by wearing them as Spoils; and that it may not be owing to you, if that Reputation which *Publius Quintius* has preſerved to his old Age, does not attend him to his Funeral Pile.

The End of the ORATION *for* Quintius.

ARGUMENT

OF THE

ORATION

AGAINST

CPISO

CICERO *entertained very ſtrong Reſentments againſt* Piſo, *and his Collegue* Gabinius, *who were Conſuls at the Time of his Expulſion from* Rome, *for their Behaviour during that Period. Accordingly, by his Oration* De Provinciis Conſularibus, *he prevailed with the Senate to recall* Piſo *from* Macedonia, *and* Gabinius *from* Syria. *After* Piſo *came to* Rome, *he made a bitter Invective againſt* Cicero *in the Senate, to which the following Oration is the Reply. It was delivered in the Conſulate of* Pompey, *and* Marcus Licinius Craſſus, *in the Year of* Rome 698, *and of our Author's Age the 52d.*

M. T.

M. T. CICERO's

ORATION

AGAINST

C. PISO.

MOST thou not now ſee, thou Brute,* and canſt thou not perceive the Complaints which Mankind has againſt thy Impudence? Nobody complains that an obſcure *Syrian* from among a Herd of Slaves is made Conſul: For his duſty Complexion, his

* *Thou Brute.*] The Beginning of this Oration is loſt, only *Aſconius* has preſerved a few Fragments of it, which we ſhall give in their proper Place. The *Engliſh* Reader

his ſhaggy Skin, and his rotten Teeth, would not ſuffer him to impoſe upon us; but here Mankind have been miſled by thoſe Eyes, by thoſe Brows, that Forehead, and by that Look which ſpeaks the ſilent Language of the Mind. By theſe he deceived, bubbled, and abuſed ſuch as did not know him. Only a few of us knew thy groveling Vices, the Dulneſs of thy Capacity, and the feeble Stupidity of thy Tongue. Never was thy Voice heard in the *Forum*; never did you venture to give your Opinion; never were you illuſtrious, or ſo much as known, for any Action either at Home or Abroad. You ſtole into Honours by the Miſtake of Mankind, by the Recommendation of thoſe ſooty Statues,* which you reſemble in nothing but their Colour.

AND ſhall he boaſt even to *me*, that he roſe to all his Preferments in the Government without Repulſe? Well may I do that noble Juſtice to myſelf, as to declare, that the People of *Rome* raiſed *me*, tho' but a new Man, to all their Honours.

WHEN

er will, no Doubt, be ſurprized at the Coarſeneſs of Expreſſion thro' this Oration, eſpecially againſt a Man of ſo great Quality and Diſtinction as *Piſo* was, but the Manners of our Author's Age, as well as of *Homer*'s, allowed of ſuch Expreſſions even among their greateſt Men and Princes.

* *Sooty Statues.*] See *Juvenal*, Sat. 8.

WHEN you was made Quæſtor, even they who had not ſeen you made a Compliment of that Honour to your Name. You was made Ædile, but it was a *Piſo*, and not *that there Fellow*, who was then dignified by the *Roman* People. The Prætorſhip too was conferred upon your Anceſtors; for they were known tho' dead; but you were quite unknown, tho' alive. But when the People of *Rome* returned *me* one of their firſt Quæſtors, the elder Ædile, and preceding Prætor, by their unanimous Suffrages, they beſtowed thoſe Honours upon *my Perſon*, and not upon *my Family*; upon *my Manners*, and not upon *my Forefathers*; upon the *Virtues* themſelves had *approved*, and not upon the *Nobility* they had *heard of*.

BUT what ſhall I ſay of my Conſulſhip? Shall I ſpeak in the Manner in which I got it, or that in which I exerciſed it? Am I now reduced to that diſmal Paſs, as to compare myſelf with that Stain, that Plague of his Country. But tho' I will ſpeak nothing by Way of Compariſon, yet will I unite in my Diſcourſe Circumſtances very widely different from one another. Thou waſt declared Conſul, that I may not aggravate a Matter beyond what is univerſally acknowledged, while the Affairs of the Commonwealth were embarraſſed; while the Conſuls *Cæſar* and

Bibulus were at Variance; nor can you deny that they who declared you Conſul, would have thought you unworthy of the Light, had you not excelled *Gabinius* in Wickedneſs. Whereas all *Italy*, all Ranks and the whole State, declared *me* the firſt Conſul, with an equal Readineſs of Suffrages and Acclamations.

BUT not to mention the Manner in which both of us were elected, ſuppoſing that every Thing which then paſſed in the Field of Election happened by mere Chance, yet ſurely it is more glorious to ſpeak of our Conduct as Conſuls, than of our Succeſs as Candidates. I, on the firſt of *January*, delivered the Senate and every worthy Patriot from the Dread of the *Agrarian* Law * and *extravagant Corruption*. If it was unadviſeable that the *Campanian* Lands ſhould be divided, their Preſervation was owing to me; if adviſable, I reſerved them for more worthy Directors. In my Pleading for *C. Rabirius*, accuſed of Treaſon, I ſupported and defended againſt the Attacks of Envy, the Authority of the Senate, which was interrupted forty Years before I was Conſul. By my Oppoſition, but without incurring any Disfavour from the Senate,

* *Agrarian Law.*] This Law was made in the Conſulate of *Caſſius* and *Proculus*, and reſtored by *Rullus*, the Tribune of the People, but abrogated by the Oppoſition of *Cicero*. See his Oration upon the *Agrarian* Law.

nate, I diſqualified * ſeveral young Men, from ſtanding as Candidates, who, tho' worthy and brave, yet were placed in ſuch a Situation by Fortune, that had they obtained Preferments in the Government, they muſt have thrown the State into Convulſions. By my Patience and Compliance, I ſooth'd my Collegue *Antonius*,† who was ambitious for a Province, and had his Head full of many dangerous Deſigns againſt his Country. In an Aſſembly of the People, who all oppoſed it, I dropped the Province of *Gaul*, which I exchanged with *Antonius*, after, by the Senate's Order, it had been nobly furniſhed with Troops and Money, becauſe I thought the Exigencies of the State

* *I diſqualified.*] This I am apt to think, was both a very impolitic and very unjuſt Action of *Cicero*'s. The Perſons thus diſqualified were of the beſt Families of *Rome*, and the Sons of thoſe who had been proſcribed by the Tyranny of *Sylla*, and who were all of them diſabled by his Laws for ſtanding for any public Offices. The Commentators here ſhew themſelves as wretched Politicians as our Author. They tell us, that *Cicero* did right, becauſe the Safety of the People required this Step. But neither *Cicero*, nor all the Senate had a right to take from the meaneſt of the People the Privileges of *Romans*. This was more deſtructive to the Safety of the People, and afterwards proved more ſo, than all the temporary Inconveniencies that could poſſibly have happened from doing a Piece of bare Juſtice. In ſhort, this Proceeding was a Conſpiracy of the *Government* againſt the *Conſtitution* of *Rome*, and not to be palliated by the ſneaking Apology our Author here makes for his own Conduct.

† *Sooth'd my Collegue* Antonius.] This, if true, was indeed a noble Proceeding on the Part of *Cicero*.

demanded ſuch a Proceeding on my Part. I commanded *L. Catiline* to leave the City, while he was not darkly, but avowedly contriving the Murder of the Senate, and the Deſtruction of *Rome*, that our Walls might protect us, when our Laws could not. In the laſt Month of my Conſulate, I wreſted out of the Hands of conſpiring Ruffians, the Sword which they pointed to the Throat of their Country: I ſeized, expoſed, and extinguiſhed the Torches which were lighted up to burn the City.

Q. *Catulus*, the Father of this Houſe, and the Guide of public Councils, in a full aſſembled Senate, named me the *Parent of my Country*; the illuſtrious *L. Gellius*, who ſits near you, ſaid, in the Hearing of this Aſſembly, that a *Civic Crown was due to me* from the Republick; the Senate, by an unprecedented kind of Supplication, opened the Temples of the Immortal Gods to me in my Robes of Peace; not, as had often been the Caſe, becauſe I had done my Country Service, but (which never had before happened) becauſe I had ſaved her from Deſtruction. When a Tribune of the People * hindred me from ſpeaking what I intended before an Aſſembly, as I was taking Leave

* *A Tribune of the People.*] This was *Metellus*. See *Ep.* 11. *B.* 5. of his *Familiar Epiſt. & Plutarch.*

Leave of my Conſulate, and when he would ſuffer me only to make an Oath, I ſwore without the leaſt Heſitation, that this Commonwealth, and this City, were preſerved from Ruin by my Cares alone.

THE full aſſembled Body of the *Roman* People upon that Occaſion beſtowed on me, not the ſhort-lived Acclamations of a Day, but Eternity and Immortality; when they looked upon my Oath to be ſo juſt, and ſo important, that they themſelves with another Oath confirmed it, as if they had but one Voice and one Heart: Then it was, that when I returned home from the *Forum*, the Man who was not attending *me* did not ſeem to be a *Roman*. And ſuch was my Conduct thro' all my Conſulate, that I did nothing without the Advice of the Senate, and the Approbation of the *Roman* People: From their *Roſtra* I always defended the Cauſe of the Senate, and in the Senate-houſe that of the People. Our Commons I united to our leading Men, and the Equeſtrian to the Senatorian Order. Thus in few Words, I have laid open my Conſulſhip; Speak of thine, thou Fury! if thou dareſt. Thine was introduced by Plays in the Streets, * which were then firſt exhibited

* *Plays in the Streets.*] Orig. *Ludi compitalitii*; for a farther Account of thoſe Plays, ſee *Feſtus Pompeius* upon the Word *Pilæ*, and *Dyoniſius*, *B.* 4. It is ſufficient to ſay

ed ſince the Conſulſhip of *L. Metellus* and *Q. Marcius* againſt the Authority of this Order. Theſe are Plays, which *Q. Metellus*, whom I wrong for mentioning at the ſame Time with this deteſtable Brute, for he had but few Equals in this State; But *Metellus*, I ſay, being Conſul elect, as a private Man forbad them to be held, even after a Tribune of the People, in Contradiction to a Decree of the Senate, took upon himſelf to order their being celebrated. Thus *Metellus*, by his *Authority*, effected what he was, as yet, not able to effect by *his Power*. When the Day of theſe Plays happened on the thirtieth of *December*, you ſuffered *Sextus Clodius*, who never before had worn the broad Border on his Robe, to celebrate them, and to flutter about dreſt as Maſter of the Diverſions, tho' a Fellow of impure Life, and worthy not only of your Countenance, but your Imitation.

THESE Foundations of your Conſulſhip being thus laid, three Days after, *Publius Clodius*, that Monſter fatal to his Country, while you looked tamely and ſilently on, aboliſhed the *Ælian*

ſay here, that they were Games, where Sacrifices in Effigy were made of Statues of the Dead, made up with Wool, placed in the Streets by way of Victims to the infernal Gods, that they would ſpare the Life of the Living.

Ælian and *Fuſian* Laws,* thoſe Bulwarks and Guardians of the publick Peace and Tranquillity. Not only the Cabals which had been aboliſhed by the Senate, but numberleſs new ones were raiſed from among the Dregs and Slaves of *Rome*. The Perſon ſo converſant in every Impurity, in every unheard-of Wickedneſs, aboliſhed the Severity of Cenſors, that venerable Directory of Manners and of Modeſty, while you, *the Grave* of that Conſtitution, of which you at that time named yourſelf the *Conſul*, never ſo much as, even by your Words, gave the leaſt Intimation of your Sentiments, while your Country was thus going to Wreck.

As yet I have only touched upon what you ſuffered to be done, and not on what you did. And indeed, in a Conſul eſpecially, there is no great Difference, whether he himſelf harraſſes the State by deſtructive Laws, and infamous Cabals, or ſuffers others to do it. Can there be the leaſt Room for a Conſul, I won't ſay for Diſaffection, but for lolling away, for trifling, and for ſleeping in this ſtrong Convulſion of the

* *Ælian and* Fuſian *Laws.*] The *Ælian* Law was paſt by *Quintus Ælius* the Conſul, in the Year of *Rome* 586, and was a very ridiculous one, becauſe it gave a Magiſtrate a Power of obſtructing the whole Proceedings of the *Comitia*, under a Pretence of obſerving the Auſpices. By the *Fuſian* Law, certain Holidays were appointed, during which no Buſineſs could be tranſacted with the People.

the State? For almoſt an hundred Years we had been in Poſſeſſion of the *Ælian* and *Fuſian* Laws, and the Power and Reverence of Cenſors had ſubſiſted for four hundred; nor had the greateſt Ruffian ever dared to ſhake them, tho' that indeed had been impoſſible for any Man: Not even the moſt audaciouſly abandoned have ever attempted ſo far to diminiſh that Power, as to prevent the Morals of *Roman* Citizens from being inſpected every fifth Year.

ALL theſe, thou Blood-hound, were buried in the Boſom of thy Conſulate. Go on with the Detail of what happened immediately after thoſe diſmal Ruins of the State. Before the Tribunal of *Aurelius*,* a Levy of Slaves was made by a Man who never thought any thing too ſcandalous for him either to do, or to ſuffer, while you did not barely acquieſce in the Villainy that was tranſacting, but you beheld it with unuſual Pleaſure in your Eyes. Thou Traytor to all Temples; the Temple of *Caſtor* † was, in thy ſeeing, made a Place of Arms by that Robber, who, in your Conſulſhip, uſed it as the Fortreſs of deſperate Citizens, the Harbour of *Catiline*'s Veterans, the Stronghold

* *The Tribunal of* Aurelius.] See the Oration for *Sextius*.

† *The Temple of* Caſtor] See the Oration for *Milo*, Vol. I.

hold of Civil Robbery, and the Grave of all Laws human and divine: But that I may paſs over Tranſactions of a more private Nature, and which may therefore be denied, I will only mention what were notorious and public. Not my Houſe alone, but the whole *Palatium* was filled with the Senate, with *Roman* Knights, with the whole Body of *Roman* Citizens, and Inhabitants of *Italy*; yet you was ſo far from taking the leaſt Concern in Favour of that *Cicero*, to whom, at your Election, you gave the leading Suffrage, and, in the Senate, was the third whoſe Opinion you demanded, that you was preſent; nay, the inhuman preſident, at all the Plots contrived for my Deſtruction.

But what had you the Preſumption to ſay to myſelf before my Son-in-law, your Kinſman? That *Gabinius* was abroad, and in Want; that he could not hold it out without a Province; that if he and you were to join your Intereſts, he might have ſome Hopes from the Tribune of the People, but that he abſolutely deſpaired of any Thing from the Senate. That you was as pliable to him, as I had been to my Colleague; that it ſignified nothing to have Recourſe to the Protection of the Conſuls; that every Man ought to *conſult* his own Safety. And here I am in ſome Doubt, whether I ſhould mention ſome Circumſtances, leſt any Perſon

Perſon ſhould not yet perceive the eminent Villainy that lurks in the Folds of that Fellow's Forehead: Yet I will mention it; he ſurely will own it, and reflect upon his Crimes with ſome kind of Remorſe.

DOST thou not remember, thou Dunghill, when I came to you almoſt at Mid-day with *C. Piſo*, how you ſneaked out of a pitiful Cabbin, with Sandals on your Feet, and your Head wrapt up? And when that fœtid Breath of thine gave us all the Exhalations of the rankeſt Stew, how you excuſed yourſelf for want of Health, and pretended that you uſed ſome Compoſitions of Wine as Medicines? When we admitted of this Apology; for what could we do elſe, we remained for ſome Time expoſed to all the Corruption and Stench of thy Maw, from whence you entertained us with *ill-manner'd Anſwers*, as well as *ſcandalous Belchings*. About two Days after, when the Man with whom you had ſhar'd your Conſular Power, had brought you into an Aſſembly, where you was aſked your Opinion of my Conſulſhip, you anſwered like a grave Dictator, like ſome Diſciple of *Callatinus* or *Africanus*, or *Maximus*, and not like a Mungrel *Placentian*, ſpawned from *Cæſonius* and *Calmentius*, with one Eye ſcrewed up to your Forehead, and the other dropp'd as low as your Chops,

Chops, that you could not approve of my Cruelty. Here you was praiſed by the worthy Herald of your Glory. Thou Scoundrel, ſhalt thou, a Conſul, dare, in an Aſſembly, to impeach the Senate of Cruelty; for I acted only by Order of the Senate. It was my Duty, as Conſul, to give them ſalutary and punctual Information; but theirs, as a Senate, to order the Trial and Judgment. Your very blaming this amounts to a Proof in what Manner you would have behaved, had you been Conſul at that Time. I doubt not but you would have given your Opinion, that *Catiline* ſhould be ſupplied with Money and Proviſion: For where was the Difference betwixt *Catiline*, and the Man to whom, for the mercenary Conſideration of a Province, you ſold the Authority of the Senate, the Safety of *Rome*, and the whole Power of our Conſtitution. For the Conſuls aſſiſted *P. Clodius* in doing the only Things in which I, as a Conſul, checked the Endeavours of *Catiline*. You have aboliſhed that Senate which he wanted to murder; you have repealed thoſe Laws which he wanted to burn: He wanted to deſtroy his Country, and you have ſeconded his Endeavours. While you were Conſuls, what was there done without Violence? That Band of Conſpirators aimed at burning the City, and you the Houſe of

the

the Man who prevented them. But had I been ſuch a Conſul as you, even they would not have thought of burning the City. For they would not have cared to deſtroy their own Dwellings. But while the Senate was ſupported, they thought they could have no Shelter for their Crimes. They aimed at *murdering*, but you at *enſlaving* their Countrymen. In this you were more cruel than they were, becauſe before your Conſulate, the Love of Liberty was ſo rooted in the very Souls of the *Romans*, that they would have preferred *Death* to *Slavery*.

IN one Circumſtance your Conduct was of a Piece with that of *Catiline* and *Lentulus*: You drove me from *my* Houſe, you confined *Pompey* to *his*; for they imagined that they could never compaſs the entire Ruin of this City, while I remained on my Poſt, as its Watchman, or while *Pompey*, the Conqueror of all Nations, oppoſed their Attempts. From my Blood you required an Expiation to the Shades of the Conſpirators; upon me you poured forth all the Rancour which had been ſtifled within the lawleſs Breaſts of thoſe Criminals, to whoſe Fury, if I had not yielded, I had, at your Inſtigation, been ſacrificed upon the Tomb of *Catiline*.

BUT what ſtronger Proof can you require of the exact Similarity betwixt you and *Catiline*, than

than your reviving the very ſame Band from the expiring Remains of his Confederates, and your collecting all manner of Ruffians from all Quarters? Than your emptying the very Goals againſt me? Than your putting Arms into the Hands of Conſpirators? Than your wanting to expoſe my Perſon, and the Life of every virtuous *Roman*, to their Swords and their Fury?

But I now return to that illuſtrious Harangue of yours. Are you the Man who are ſhock'd at Cruelties? *You*, my good compaſſionate Dear, What did *you* do, when the Senate came to a Reſolution of ſignifying their Affliction and Grief, by changing their Habit, when you ſaw the Sorrows of your Country expreſſed in the mourning of the nobleſt Rank of her Sons? Why, you acted more *barbarouſly* than the moſt *barbarous* Tyrant ever did: not to mention that, as a Conſul, you prohibited the Senate from acting in conſequence of its own Decree; a Proceeding the moſt execrable that can be held or conceived. I now return to the tender-hearted Pity of the Man, who thought the Senate exceeded in Cruelty, when they ſaved their Country.

He had the Preſumption, in Conjunction with his Compeer, whom yet he endeavours to out-do in all manner of Iniquity, to enjoin the Senate, that they ſhould reſume their ordinary

Dreſs, as they had changed it contrary to his Sentiment. What *Scythian* Tyrant ever refuſed *to the Grief* himſelf had inflicted, the Privilege of *Mourning?* You leave them in Sorrow, yet deprive them of the *Tokens* of Woe; you dry up their Tears, not by Conſolation, but by Terror.

BUT ſuppoſing that the Fathers Conſcript had not changed their Habits by public Decree, but from a Motive of private Duty and Affection; even in that caſe, it would have expreſſed inſufferable Tyranny, had you interpoſed your barbarous Edict to have hindered them; but after the Senate, in a full aſſembled Houſe, came to this Reſolution, after the other Orders had already put the ſame in Execution, it was then, that you, tho' a Conſul, being dragged out of a blind Tavern, along with that ſleek Dancereſs,* prohibited the *Roman* People from mourning the Fall and Ruin of their Pepublic.

YET ſome Time before that, he aſked me what Service he could do me, and why I did not oppoſe my Intereſt to that of my Enemies? as if I, forſooth, I, who have been often ſerviceable to others; nay, as if the moſt deſtitute Wretch who ever lived, would think himſelf more ſafe when defended by him, or even more ready for his Trial, ſhould he be his Advocate and

* *Sleek Dancereſs.*] Meaning *Piſo*'s Collegue, *Gabinius.*

and joint Security. Should I reſt my Intereſts upon the Councils and the Patronage of that rotten Lump of Fleſh? Should I require either Aſſiſtance or Countenance from that Carcaſe which ſtinks above Ground? I wanted then the Aſſiſtance of a Conſul, I won't ſay ſuch a Conſul as I could not have found in that Hog of a Fellow, one who by his Authority and Wiſdom was capable of ſupporting the weighty Intereſt of his Country; but a Conſul, who tho' he had ſtood like a Stock, or a Stump, yet was capable to have borne at leaſt the Title of the Conſulate. For as my Cauſe was entirely Conſular and Senatorial, I required the Aſſtance both of a Conſul and of a Senate. The Power of the Conſulate was pointed in your Perſons at my Deſtruction; and the Authority of the other was aboliſhed out of the Government: But if you deſire to know the Reaſon of my Conduct, know that I never would have yielded, and that my Country ſhould have held me claſped to her Boſom, had that funereal Gladiator,* yourſelf, and your Collegue, been the only Foes I had to encounter.

THE excellent *Quintus Metellus*, who, as a Citizen, in my Judgment, vies with the Glory of immortal Beings, had a different Reaſon for his Conduct; when he thought it adviſeable to yield to *Marius*, the braveſt of Men,

* *Funereal Gladiator.*] Clodius.

who was then Conſul, as he had been five Times before in order to avoid a Diſpute with his invincible Legions. What Conflict of that Kind had I to undergo? Was I to encounter a *Marius*, or one equal to him, or a briſtled *Epicurean* coupled with one of *Catiline*'s Revellers? Believe me, I never fled from ſuch, nor from *your* bullying, nor from the Pipes and Tabors of your Collegue; nor was I, who, after ſteering the Veſſel of Government in the moſt dreadful Storms of State had laid it ſafe up in Harbour, ſuch a Coward to be afraid of the little Cloud that hangs on thy Brow, or the Puff of ſtinking Breath that breaks from thy Collegue. But I foreſaw other-gueſs Winds, my Mind prognoſticated other Storms. To the Tempeſts that had already lowr'd I did not yield, but expoſed my ſingle Perſon to them for the common Safety.

THE Conſequence of this was, that when I retired, every lawleſs Sword dropped from every bloody Hand: 'Twas then, thou frantic Wretch, while all our worthy Men were grieving in ſecret Retirements, while our Temples ſeemed to mourn, and the very Dwellings of the City to languiſh, that you embraced that bloody Monſter,* that Complication of lawleſs Luſts, of inteſtine Murders, of all Sorts of execrable Crimes, and the Impunity of deteſtable Wicked-

* *Monſter.*] Clodius.

Wickedneſs, and in that very Temple, upon the ſame Spot of Ground, and in the ſame Inſtant of Time, you acted as Executors not only to me, but to my Country. Why ſhould I publiſh the Feaſts of thoſe Days, your Gambols, your Carouſings, and your exceſſive Debauches, amidſt the ſcandalous Herd of your Companions? In thoſe Days, was there a Man who could ſay he ever ſaw you in your Senſes, that he ever ſaw you doing any thing that was becoming a Gentleman? In ſhort, that he ever ſaw you appear in public? At a Time when your *Collegue's Houſe* reſounded with Songs and *Cymbals*, while he himſelf in the Entertainment danced naked to their Muſic, without learning to apprehend the Changes of Fortune's Wheel, from the Mazes of thoſe wheeling Dances † he then led up. But this Fellow here, a leſs clever, a leſs muſical Glutton, was

† *The Mazes of thoſe wheeling Dances*] Orig. *Cum illum ſuum ſaltatorium verſaret orbem.* There is a Diſpute among the Commentators, whether our Author here alludes to the Form of the Dance, which might have been ſomewhat like our Country Dances, or if it alludes to the Poſtures, and the diſtorted Geſtures made uſe of in Dancing. The Diſpute is very pedantic. I am apt to be of the former Opinion, and that the *Romans* had this Manner of Dancing from the *Greeks*, among whom it ſtill continues. *Homer* has deſcribed it very well in the 18th *Book* of his *Iliad*.

Now, all at once they riſe, at once deſcend,
With well-taught Feet: Now ſhape in oblique Ways,
Confuſedly regular, the moving Maze:

Now

then wallowing in the undigeſted Impurity of his own *Greeks*. An Entertainment of this Sort, at a Time of ſuch public Diſtreſs, was talked of as if the *Lapithæ* and the *Centaurs* had been the Gueſts; and it is hard to ſay in that Debauch, whether *Piſo* here drank and vomited up, or waſted the greater Quantity of Wine.

WILL *you* then preſume to make Mention of your Conſulſhip? Will *you* have the Impudence to own that you was a Conſul at *Rome*? How! Do you imagine that the Conſulate conſiſts in the Lictors, or in the Robes of State? Yet while you was Conſul, *you indulged* Sextus Clodius * *in wearing thoſe very Badges of Diſtinction*; and do you think, that a Conſulſhip is expreſs'd by Ornaments which bedecked this Dog of a *Clodius*?† A Conſul ought to have Spirit,

Now forth, at once, too ſwift for Sight they ſpring,
And undiſtinguiſh'd blend the flying Ring:
So whirls a Wheel, in giddy Circle toſt,
And rapid as it runs, the ſingle Spokes are loſt,
The gazing Multitudes admire around;
Two active Tumblers in the Center bound;
Now high, now low, their pliant Limbs they bend,
And general Songs the ſprightly Revel end.

Mr. POPE.

* *You indulged* Sextus Clodius.] This *Sextus Clodius* is probably the ſame that is mentioned in the Oration for *Milo*.

† *This Dog of a* Clodius.] Orig. *Clodiani Canis*. It may likewiſe ſignify *Clodius*'s Dog, from his famous Obſequiouſneſs to *Pub. Clodius*, and from his ſnarling at every Body who attacked him.

Spirit, Wiſdom, Vigilance, Honour, Weight, Circumſpection; in ſhort, he ought to perform the whole Duties of a *Conſul*, by *protecting*, and above all, by *conſulting* (as the Name of the Office implies) the Good of his Country. And can I look upon a Man as a *Conſul*, whoſe Conduct was ſuch, as if he did not think that there was a Senate in this Commonwealth? Can I number among the *Conſuls* a Man who ſeparates himſelf from an Aſſembly, without which, even Kings could not maintain themſelves at *Rome** I ſhall not at this Time touch upon the Levies of Slaves which were made in the *Forum*; upon the Arms, which in broad Day were publickly carried into the Temple of *Caſtor*; a Temple which was forcibly poſſeſs'd, its Entrance barricaded, and the Steps up to it torn away by the Remains of the Conſpiracy, and the *formerly* ſham Accuſer ‡ of *Catiline*'s Practices, but then the Avenger of his Blood. When *Roman* Knights were baniſhed, when Patriots were ſtoned out of the *Forum*, and when the Senate was denied the Liberty of aſſiſting, nay, of mourning over their Coun-

* *Kings could not maintain themſelves at* Rome.] It appears from this Paſſage, our Author was of Opinion, that the original Inſtitution of the *Roman* Government was not an abſolute Monarchy, ſince we find that the Senate was appointed to be a Check upon the Conduct of their Kings.

‡ *Sham Accuſer.*] *Clodius* accuſed *Catiline* of Bribery, when the latter returned from his Province.

try: When a Citizen,* whom this Aſſembly, with the unanimous Conſent of *Italy*, and of all Nations, had declared the Saviour of his Country, was expelled by Slaves, and an armed Force; I will not ſay, (tho' I might do it with Truth) by your Aſſiſtance, but ſurely with your tacit Connivance, without any Trial, without any Law, without any Precedent; will any Man imagine there were any Conſuls in *Rome*?

If you are Conſuls, I ſhould be glad to know what it is to be a Ruffian? Who are they whom we term Robbers, Enemies, Traytors, and Tyrants? Great is the Authority, awful is the Appearance, exalted is the Dignity, and powerful the Majeſty of a Conſul: That narrow Heart of thine cannot receive, the Vileneſs, the Poorneſs of thy Spirit is not capable of admitting, nor thy crazy Capacity, joined with thy Inſolence in Proſperity, able to ſuſtain a Character ſo great, ſo important, and ſo awful. By Heavens! I have been inform'd, that the very Perfumer's Ward in *Capua*, as ſoon as they ſaw you, rejected you even for a *Campanian* Conſul. They had heard of the *Decii*,† the *Magii*, and had ſome Inkling of *Taureas Jubellius*; who if they did not poſſeſs that Purity of Virtue which uſed to be in our

* *A Citizen.*] Our Author means himſelf.
† *Decii.*] Theſe were all *Campanians*.

our Conſuls, yet they had *Pomp*, *Appearance*, and a *portly Manner*, which at leaſt did Credit to the *Perfumer's Ward*, and the City of *Capua*. In ſhort, if theſe Muſk-cats of yours had ſeen *Gabinius* one of their two Magiſtrates, they would have ſooner wiſhed *him* Joy. For *his* Hair was dreſs'd; *his* curling Locks dropped the Dew of Ointments, *his* Cheeks were beſmeared with Paint; an Appearance worthy of *Capua*, I mean the old *Capua*:† For the modern *Capua* is full of the moſt illuſtrious Perſonages, the braveſt Heroes, the beſt Patriots, and all my very good Friends. Not a Man among theſe ever ſaw *you* in your Robes at *Capua*, who did not bemoan the Loſs of *me*, by whoſe Councils they remembered this whole Empire, but, in a more ſpecial Manner, that City was preſerv'd; || to *me* they had erected a gilded Statue; they had attach'd themſelves to *me* as their ſole Patron; to *me* they thought they owed the Enjoyment of their Lives, their Fortunes, and their Families. When I was preſent, they defended me, by their Deputations againſt your Robbery; and when abſent, they recall'd me at the Motion of *Cn. Pompeius*, who drew out from the Body of this Republic the Weapons of thy Wickedneſs.

WAS

† *Old* Capua.] This City had been formerly famous for its Luxury and diſſolute Manners.

|| *That City was preſerv'd.*] See the Orations againſt *Catiline*, Vol. II.

WAS you Conſul or not, when my Houſe on the *Palatium* was in a Blaze, not by Accident, but by Fire-brands toſt into it at your Inſtigation? Was there ever ſo great a Conflagration in this City, and the Conſul not run to extinguiſh it? But *you*, at that very Inſtant, was ſitting near my Houſe, at your Mother-in-law's, whoſe Doors you threw open, for receiving the Plunder pillaged from me; and there you ſat, not to extinguiſh the Flames, but to encourage the Incendiaries; and you, though a Conſul, in a manner furniſhed the raging Miniſters of *Clodian* Fury with burning Torches.

AND indeed, did any one during the reſt of your Year look upon you as Conſul? Was there a Man who obeyed you? Was there one Senator who roſe up to ſalute you when you came into the Senate? Was there one who deigned to give his Opinion when you aſked it? In ſhort, Is that Year to be reckoned in the Annals of this State, in which the Senate was mute, the Courts of Juſtice ſilent, good Men in Affliction, the Violence of your Robbery raging all over the City; and when not one Citizen only left *Rome*, but the City itſelf ſhrunk from the Wickedneſs and the Guilt of you and your Collegue *Gabinius*? Yet, thou wallowing *Cæſonian*, thou didſt not emerge from the dirty Puddle of thy Nature, even when

when the Courage of a moſt eminent *Roman*,* being at length rouſed, recalled his ſincere Friend, and a deſerving Citizen, and reſumed all his former Spirit of Patriotiſm. Nor would that great Man ſuffer the Peſtilence of your Crimes any longer to taint that State, which he himſelf had enlarged; yet, at that Time, *Gabinius*, who is inferior to *you* alone in Impudence, bad as he is, with ſome Difficulty recovered his Reaſon: (He did however recover it:) And at firſt in Appearance only, afterwards without any Spirit, but, at laſt, both with Heart and Vigour he acted in Favour of *Pompey*, againſt his *Dear Clodius*. Wonderful was the Impartiality which the People of *Rome* diſcovered at the Exhibition of this Encounter; for like an expert Maſter, ſeeing the Match ſo equal, they thought themſelves ſure of gaining on the Fall of either; but that if *both* fell, why then they were both made for ever.

But ſtill *Gabinius* was uſeful in his Way; for he defended the Authority of a very great Man. He was indeed a Ruffian; he was a Gladiator; but he was matched with one as much a Ruſſian, as much a Gladiator as himſelf. While you forſooth had ſo much ſcrupulous Sanctity about you, as to refuſe to break

* *A moſt eminent* Roman.] Our Author means *Pompey*, who by all Accounts never was his hearty Friend, and did him this Service only to make a Tool of him.

break that League, which, in bargaining for the Provinces, you had ſtruck with my Blood: For *Clodius*, that inceſtuous Adulterer, had ſtipulated for himſelf, that if *he* beſtowed on you a Province, an Army, and Money, pluck'd from the Bowels of his Country, *you* ſhould always ſtand his Partner and Support in all his Guilt. Hence it was that the Rods of his Office were broken, and himſelf wounded in the Tumult that enſued; Weapons, Stones, and Uproar flew every Day about; and, at length, one was ſeized in Arms near this Houſe, and it appeared he was placed there to murder *Pompey*.

DURING all this Time, who ever heard you (I will not ſay) act or remonſtrate, but ſo much as ſpeak or complain? Can you imagine yourſelf to have been a Conſul, when under your Government, the Man who had ſaved his Country, who had ſaved the Majeſty of the Senate, when the Man * who had led in Triumph into *Italy*, at three ſeveral Times, the Inhabitants of every Quarter of the World, declared that he could not ſafely appear in public. Were ye Conſuls at the Time, when as ſoon as ye began to open your Mouths upon any Affair, or to make any Motion in the Senate, the whole Aſſembly called out, and gave you to underſtand, that you was not to proceed to Buſineſs, before

* *The Man.*] Meaning *Pompey*

before you had put the Queſtion for my Return; when, tho' fettered by the Convention you had made, yet you told them, you wiſhed it with all your Heart, were you not bound up by Law. A Law which did not appear to be binding upon private Subjects; a Law branded upon this Conſtitution by the Hand of Slaves, engraved by Violence, impoſed by Ruffians, while the Senate was aboliſhed, all our Patriots driven out of the *Forum*, the Republic in Captivity; a Law contradictory to all other Laws, and paſſed without any of the uſual Forms: The Conſuls, who could pretend they were afraid of ſuch a Law as this, can the Spirit of Mankind brook? Can even the public Annals endure ſuch Conſuls? For if you thought a Law to be void, when it contradicted all other Laws, being neither more nor leſs than a Tribunitial Proſcription of the Perſon and Effects of a *Roman* Citizen, uncondemned and unattainted, yet, if after this your Hands were tied up by this Contract, can any one think you were Conſuls? nay, can they think you were free Men, when Lucre had fetter'd your Souls, and Corruption ſealed up your Lips? But if you were the only *Romans* who thought this was a Law, what *Roman* can think that you were then *Conſuls*, or that you are now *Conſular*, when you were ignorant of the Laws, the Inſtitutions and the Rights of that very State in which

which you pretend to a Share of the Government.

IN your military Robes, * when you were ſetting out for thoſe Provinces, which you either bought or ſeized, was there a Man who looked upon you as Conſuls? No doubt, if your Retinue was not numerous, at leaſt they attended you with good Wiſhes, as uſual to Conſuls, and not with the Curſes commonly beſtowed on Enemies and Traytors.

AND ſhalt thou, thou Monſter of Barbarity and Impurity, dare to rail at, dare to reproach me for my Departure, that Evidence of thy Guilt and Cruelty? Then it was, Fathers Conſcript, that I received from you the immortal Proofs of your Love and Eſteem for me, when you quell'd the Fury and the Petulance of a deſpicable half-dead Wretch, † not by Murmurs, but by loud Remonſtrances and Out-cries. Do you reproach *me* with the Grief of the Senate, with the Affliction of the Equeſtrian Order, with the Deſpondency of all *Italy*, with a whole Year's Taciturnity of the Senate, with the

* *In your military Robes.*] Orig. *Paudati.* The *Roman* Magiſtrates, immediately before their ſetting out for their Provinces, went firſt, and paid their Devotions in the Capitol, and then left *Rome* dreſt in their military Habits. *Varro* expreſſes that Cuſtom in the following Manner.

Paludamenta ſunt Ornamenta & inſignia militaria. Ideo ad Bellum cum exit Imperator, ac Lictores mutant veſtem, & ſigna incinuerunt; paludatus dicitur proficiſſe.

† *Half-dead Wretch.*] Meaning *Clodius.*

the perpetual Silence of our Courts and *Forum*, and all the other Wounds which my Departure inflicted upon this State? Suppoſing it to have been calamitous, yet ſurely it was more worthy of Compaſſion than Reproach, and may be deemed to be accompanied with Glory rather than Diſgrace: Granting it was Affliction to *me*, it at leaſt reflected Guilt and Infamy upon *you*.

WHAT I am now to ſay, perhaps may give Surprize, but I ſhall never be afraid of ſpeaking what I think: Give me Leave then to ſay, Fathers Conſcript, favoured and honoured as I am by you, I am ſo far from thinking my Departure a Calamity, that I think it was a Fortune to be wiſhed for, to be deſired by me, for increaſing my own *private* Glory, if it is poſſible, as it ſcarcely is, that I can have any *Glory* ſeparate from that of my Country.

BUT now to compare the Day of your greateſt Joy with that of my bittereſt Woe, Whether do you think it preferable in the Eyes of a virtuous and wiſe Man, to leave his Country, ſo as that all his Countrymen ſhall pray for his Welfare, his Safety and his Return, which was my Caſe; or, as happened to you when you ſet out, to be curſed, to be execrated by all your Countrymen, that the Journey you was going might be your only, and your laſt. By Heavens! had I been ſo much hated by all Man-

Mankind, eſpecially, if hated with Juſtice and with Reaſon, I would have preferred Flight at any Rate to a Province with every Advantage. But to proceed: If that Period of my Departure, the moſt uneaſy of any in my Life, is preferable to the calmeſt of yours; What Compariſon will the Remainder admit of, which to you was as full of Infamy, as to me, of Dignity?

ON the firſt of *January*, the firſt Day that ſhone upon the State, after I was eclipſed and ſet, all *Italy* flock'd together; the eminent and brave *Publius Lentulus* put the Queſtion, the People of *Rome* aſſented, and the Senate in a full aſſembled Body unanimouſly demanded my Return. The ſame Senate recommended me to foreign Nations, to our Lieutenants and Governors, by its own Authority, in Conſular Letters, as a Citizen who had ſaved the State; for this was the Expreſſion at that Time, and not like one baniſhed from his Country, as you, thou *Inſubrian*,* uſed to expreſs yourſelf. The Senate thought proper, for the Preſervation of my ſingle Perſon, to implore, by the Voice and the Letters of a Conſul, the Aſſiſtance of our Fellow Citizens throughout all *Italy*, who wiſhed well to their Country, to preſerve my Life; all *Italy*, at one and the ſame Time, met

* *Thou* Inſubrian.] This was a Term of Reproach upon *Piſo*'s Parentage.

met at *Rome*, as if upon an appointed Signal, for my Safety; frequent and weighty were the Harangues of that moſt worthy Man, and excellent Conſul *Publius Lentulus*, of *Pompey*, that eminent and invincible *Roman*, and of the other leading Men in the State. In my Favour the Senate reſolved, *Pompey* being the firſt * who laid it down as a Maxim, *that whoever obſtructed my Return, was an Enemy to his Country*, and in ſuch Words was the *Authority* of the Senate in my Favour expreſſed, that a Triumph never was declared to any Man in more honourable Terms, than thoſe in which my Preſervation and Reſtoration were conceived. After all our Magiſtrates had publiſhed the Bill in my Favour, excepting one Prætor, who being Brother to my Enemy, it was not to be expected he would comply; and two Tribunes of the People, who were bought at common Auction. The Conſul *Publius Lentulus*, with the Conſent of his Collegue, *Quintus Metellus*, propoſed the Law with Regard to me, at the *Centuriated Comitia*; ſo that the Intereſts of our Country, by Means of the Courage and good Senſe of that excellent Perſon, made us Friends in his

* Pompey *being the firſt.*] Orig. *Cn. Pompeio auctore & ejus ſententiæ principe.* The Meaning of this is not, as is commonly apprehended, *That* Pompey *made the Motion*, but as every Senator had a Right to ſpeak to the Queſtion, they might make what Amendments they pleaſed. This appears to have been an Amendment of *Pompey*'s to the main Queſtion, and agreed to by the Senate.

Conſulſhip, tho' we had been at Variance during his Tribuneſhip.

NEED I to mention the Manner in which this Law was received? I underſtand from yourſelves, that no Pretext was ſufficient to excuſe any Citizen from appearing there; that never was there ſo great, or ſo ſplendid an Appearance of *Romans* ſeen together at any *Comitia*. One Thing I can be Judge of from mine own Eyes, becauſe I have it from the public Regiſters; That you were the Solicitors, that you were the Diſtributors, that you were the Guardians of the collected Votes; and that, of your own Accord, without any Entreaty, you did for my Preſervation what your Ages and Rank exempts you from doing, even when your Kinſmen ſtand for public Honours.

THOU *Epicurus*, not brought from the School, but from the Sty, compare, if thou dareſt, the Circumſtances of thy Abſence with mine: You obtained a Conſular Province, bounded not by the Regulations preſcribed by thy Son-in-law, but by thoſe of thy own Ambition; for by that equitable, that excellent Law of *Cæſar*, the People were free in the moſt obvious and literal Senſe. But by that Law, which beſides thee and thy Collegue, nobody ever imagined to be a Law, all *Achaia*, *Theſſaly*, *Athens*, and, in a Word, all *Greece*, was given up to thee; you had an Army greater than was given you

you by the Senate and People of *Rome*, great as your own Ambition could raiſe. The public Treaſury was exhauſted;—What did you do in this Command, with this Army, and this Conſular Province? Am I aſking what he did? He who no ſooner arrived—But I am not yet come to the Mention of his Rapines, nor of the Monies he extorted, robbed, or exacted, nor the Executions of our Allies, nor the Murder of thoſe who entertained him, nor his Treachery, Barbarity, and Wickedneſs. By and by, if you will give me Leave, I will diſpute with him as guilty of Theft, of Sacrilege and Murder. At preſent I will compare my Fortunes, when ſtripped bare, with his, when in all the Glory of Imperial Command.

DID ever one obtain a Province, with an Army, and yet ſend no Letters to the Senate? And a Province too ſo large, an Army ſo numerous, eſpecially ſuch a Province as *Macedon*, which borders upon ſo many barbarous Nations, that our *Macedonian* Governors had no other Barrier to their Dominions, than the Points of Swords and Javelins. A Province from which few veſted with Prætorian, but none with Conſular Power ever returned, if with unattainted Honour,* without a Triumph. If this be unuſual, then it is much more ſo, that this Vul-

* *With unattainted Honour.*] Orig. *Incolumis*, which *Grævius* (and he is in the Right) calls *Nihil aliud quam Dignitate illæſa.*

ture of this Province ſhould be honoured, forſooth, with the Title of (no leſs than) Emperor.

WELL then, my *Paulus*,† did you then preſume to ſend any Diſpatches wrapt in Laurel to *Rome*? He ſays he did. Then who read them? Who moved that they ſhould be read? For it is not to my Purpoſe, whether ſtung by Remorſe for your Crimes, you never preſumed to write to that Body, which you had deſpiſed, which you had diſtreſſed, which you had aboliſhed; or whether your Friends concealed your Letters, and thus, by their Silence, paſſed a Cenſure upon your Raſhneſs and Preſumption. And indeed I cannot ſay, whether I would chuſe, that you ſhould ſeem abandoned to all Senſe of Shame in ſending Letters, and that your Friends ſhould be Men of more Modeſty and Judgment, or that you ſhould appear as expreſſing a Modeſty foreign to your Character, and your Conduct ſtand uncondemned by your Friends.

BUT tho' by your execrable Affronts upon this Order, you had not eternally precluded yourſelf from all Favour with the Senate, give me Leave to aſk you what was done or acted in that Province, upon which you could write with any Manner of Congratulation to the Senate. The harraſſing of *Macedon*? or this ſcandalous Loſs of Towns? The Plunder of our Allies? The

† *My* Paulus.] This is an Ironical Alluſion to the Name of the great *Paulus Æmilius*, who ſent Letters wrapt up in Laurel from his Provinces to the Senate.

The Devaſtation of their Lands? The fortifying the Citadel of *Theſſalonica*?* The Blockade of our military Cauſeway? The Ruin of our Army, by the Sword, by Cold, by Famine and Peſtilence? As for your writing nothing to the Senate, you thereby proved, that as in *Rome* you was found more profligate than *Gabinius*, ſo in your Province you expreſs'd a little more Modeſty than he did.

For that Gulph of Gluttony, whoſe Belly is his God, without Regard to Honour or Glory, after he had ſtripped the *Roman* Knights in his Province, and the public Officers, who are connected to us in Affection, and neareſt to us in Dignity, all of them of their Fortunes, and many of them of Life and Reputation; after he had effected nothing with his Army but the Plunder of Towns, the Devaſtation of Lands, and pillaging of Houſes, he durſt (for what dares he not?) petition the Senate, by his Letters, for a Thankſgiving.† Immortal Gods!

* *Citadel of* Theſſalonica.] Our Author explains, in his Oration *De Prov. Conſ.* both thoſe Circumſtances: *Theſſalonicenſes poſiti in gremio imperii noſtri relinquere opidum & arcem munire coacti ſunt.*

Via illa noſtra quæ per Macedoniam *eſt uſque ad* Helleſpontum *militaris, non ſolum excurſionibus barbarorum infeſta fuit, ſed etiam Caſtris* Thraciis *diſtincta ac notata.*

† *A Thankſgiving.*] This was an inferior Kind of a Triumph, by which the Senate decreed public Prayers to be put up for ſuch a Number of Days by Way of Thankſgiving for the Succeſs of a General. But, after all the Sarcaſms thrown out by our Author againſt *Gabinius*, *Joſephus*

Shall you, ſhall you, ye twin Whirlpools and Rocks on which the State has been wreck'd, ſhall *ye* decry *my* Fortunes? Shall *ye* extol your own? I, in whoſe Favour, tho' abſent, ſuch Decrees of the Senate were paſs'd, ſuch Aſſemblies were held, ſuch Stirs happened among all our municipal Cities and Colonies, ſuch Reſolutions were made by the Officers of our Revenue, by the Colleges; in ſhort, by all Ranks and Conditions of Men, as I never durſt have wiſh'd for, and could not have conceiv'd; whereas you have undergone the indelible Brands of the moſt ſcandalous Infamy. Were I, *Piſo*, to ſee thee and thy Collegue *Gabinius* faſtened to a Croſs, could I conceive more Joy from your mangled Limbs, than I now feel from your mangled Reputation? No; nothing can be thought Puniſhment which ſome Accident or other may make the Lot of the Brave and the Virtuous. Even your Men of Pleaſure among the *Greeks* * teach this: I wiſh you had heard them as they ought to be heard, you then would not have been whirl'd down in the Gulph of ſo many Crimes. But you hear them in your Sinks, you

Joſephus the *Jewiſh* Hiſtorian is very laviſh in his Praiſe for the great Application he gave to reſtore the Affairs of the Provinces to a flouriſhing State; and gives ſeveral Inſtances of his Prudence and Munificence to Cities.

* *Your Men of Pleaſure among the* Greeks.] Our Author does not here abſolutely condemn the *Epicurean* Philoſophy, only intimates that it is miſunderſtood.

you hear them in your Stews, you hear them in your Feaſts, and over your Cups; yet even they who define Evil by Pain, and Good by Pleaſure, teach that a wiſe Man, even tho' he were ſhut up within, and broil'd with Flames applied to, the Bull of *Phalaris*, would maintain that even *that* Condition was pleaſing, and that he would not be a Jot moved. So much Power do they aſcribe to Virtue, that they will not allow it ever poſſible for a good Man not to be happy.

WHAT then is Puniſhment? What is Execution? In my Opinion it is that which can happen to none but *to the Guilty*: A wicked *Intention*, a Mind hamper'd and oppreſſed by *one's own Conſcience*; the *Hatred* of the Worthy; an *indelible Brand* inflicted by the *Senate*; the *Loſs of Dignity*. To me neither *Marcus Regulus*,* whom the *Carthaginians* ſhut up in a Machine, where he lay bound, cutting off his Eye-lids, and killed him by keeping him from Sleep, ſeems to have undergone any Tortune; nor *C.*

* *Marcus Regulus.*] This was the famous *Roman* Conſul who was made Priſoner by the *Carthaginians*, who put him to a cruel Death, and the Truth of whoſe Story is ſo much doubted of. We have an elegant Deſcription of his Puniſhment, in *Silius Italicus*, Book vi. ver. 339.

Præfixo paribus ligno Mucronibus omnes
Armantur laterum crates, denſiſque per artem
Texitur erecti ſtant ſque ex ordine ferri
Infelix ſtimulus, ſomniſque hac fraude negatis
Quocunque inflexum producto tempore tortor
Inclinavit iners, fodiunt ad viſcera corpus.

Marius,* whom *Italy*, which he had preſerved, beheld ſunk in the *Minturnian* Bogs, and *Afric*, which he had ſubdued, ſaw expoſed and ſhipwreck'd. For theſe Arrows of Affliction are not directed by Guilt, but by Fortune; but *Torture* is the Puniſhment of *Offences*. And were I to imprecate Misfortunes upon you, as I have often done, when the Gods have heard my Prayers, I would not pray that you ſhould be ſubjected to *Diſeaſe*, to *Death*, or to the *Rack*. The Imprecation of *Thyeſtes* † is an Imprecation penn'd by the Poet, to touch the Minds of the ſtupid.

May you be Shipwreck'd; may you feel the Sharpneſs of the cutting Flints; may you hang by the Side, with your Bowels dropping out, beſmearing the Rocks with your Gore and Blood.

WERE this to happen you, I ſhould by no means be concerned at it; but then it is what may happen to any Man. *M. Marcellus*,‡ who in

* *C. Marius.*] This was the famous Antagoniſt of *Sylla*, who had conquer'd the *Cimbrians* and the *Teutones*, after they had broke into *Italy*, and threatened the Deſtruction of *Rome*. The Story of his ſkulking in the Bogs, and of his Shipwreck in *Afric*, may be found in *Appian* and *Plutarch*.

† *Thyeſtes.*] This Paſſage appears to have been a Quotation from *Ennius*, who wrote a Tragedy under this Title.

‡ *M. Marcellus.*] *Aſconius* tells us, that this was not the famous *Mercellus* who conquer'd *Syracuſe*, and cut out ſuch Work for *Hannibal*, but his Grandſon, who was Shipwrecked in *Afric*, ſoon after the Beginning of the third Punic War. The ſame Scholiaſt gives us an Anecdote of this Gentleman, which I ſhall tranſcribe, as it may give the Reader

in his third Conſulate, a Man of the greateſt Virtue, Piety, and military Accompliſhments, periſhed on the Sea: Yet his Virtue ſtill keeps him alive in Fame and Glory. A Death like that is to be looked upon as an *Accident*, and not as a *Penalty:* What then is the Penalty? What is extreme Torment? Where are the *pointed Flints*, and where the *torturing Racks?* Behold two Commanders at the Head of an Army, in the Provinces of the *Roman* People with the Title of *Emperors*, yet one of them was ſo diſmayed by the Conſciouſneſs of his own Wickedneſs and Villany, as not to dare to ſend ſo much as a Letter to the Senate from that very Province, which, of all others, afforded the moſt frequent Subjects of Triumph. A Province from which *L. Torquatus*, a Man accompliſhed in every Excellence, was lately, at my Inſtance, ſaluted *Emperor*, for his noble Exploits. A Province from which, within theſe few Years, we have ſeen the well-won Triumphs of *Cn. Dolabella*, *C. Curio*, and *M. Lucullus*; yet while you commanded in this Province, you

Reader an Inſight into the private Character of thoſe great *Romans*. It ſeems he erected Statues to his Grandfather, his Father, and himſelf; among other Monuments of his Grandfather, which ſtood near the Temple of Honour and Virtue, with the following Inſcription, III. *Marcelli Novies Coſſ.* which tho' it impoſes upon the Reader, is yet a handſome Apology for his Father, who was but once Conſul, whereas his Grandfather was five Times, and himſelf thrice, making up nine Times in the whole.

you did not ſo much as ſend a Diſpatch from it to the Senate: From your Collegue, Letters were brought, they were read, and a Motion upon them was made in the Senate.

Immortal Gods! Could I have been ſo bold as to wiſh that my Enemy ſhould be branded with an Ignominy which no Man ever ſuffered beſides himſelf! That the very Senate who are come into ſuch a Habit of Generoſity, that they diſtinguiſh all who ſerve their Country by new Honours, both as to the Number of their Thankſgiving Days, and the Terms of Reſpect in their Decree; that this Senate ſhould ſingle this Fellow out, as being unworthy of having any Regard paid to his Letters? as to refuſe the Requeſt they contained? Theſe are Circumſtances which give me Food, give me Pleaſure, give me Enjoyment. That this Order ſhould entertain the ſame Sentiments of you as of their moſt mortal Enemies. That you are hated by the *Roman* Knights, by the other Orders, and by all the State: That there is no worthy Man; no Man who is a Citizen, if he remembers himſelf to be a *Roman*, whoſe Eyes do not avoid, whoſe Ears do not abhor, whoſe Soul does not deteſt your Perſons, and who does not ſhrink from the very Remembrance of your Conſulate.

THIS is a Vengeance upon you, which I always deſired, I always wiſh'd, I always pray'd for: Nay, it was more compleat than even my Wiſhes.

Wiſhes aroſe to; for, by Heavens! I never wiſh'd that you might loſe your Army. This did happen beſides my Wiſh, tho' very much according to my Inclination: For it had not come into my Mind to wiſh that you ſhould fall into the Frenzy and Diſtraction you did fall into; yet it was what I ſhould have wiſh'd for. But it had eſcaped me, that thoſe Puniſhments of the Immortal Gods are irrevocably and inevitably decreed againſt the Wicked and the Guilty. For you are not, Fathers Conſcript,* to imagine that, as you ſee in a Play, the Wicked are haunted by the blazing Torches of Furies, ſent as the Miniſters of Divine Vengeance. It is private Villany, it is conſcious Guilt, it is perſonal Preſumption, that drives every Man from the Enjoyment of the Soundneſs of Underſtanding: Theſe are the Furies; theſe are the Flames, theſe are the Torches of the Wicked.

AM I not to look upon you as a Madman, as a Lunatick, as more frantic than *Oreſtes* or *Athamas* † in the Play, for firſt preſuming (for that is the capital Point) to leave *Macedonia*, a Province into which you had tranſported ſo

* *For you are not, Fathers Conſcript, to imagine.*] This is exactly the ſame Sentiment which our Author had delivered in his Oration for *Roſcius* of *Ameria*, p 49.

† *Oreſtes* or *Athamas.*] For the Story of *Oreſtes*, ſee Vol. I. in the Notes on the Oration for *Milo*. This *Athamas* was a *Theban* Prince, who barbarouſly put to Death his two Sons, after he had been ſtruck with a Frenzy by *Juno*. Both theſe Princes were the Subjects of Tragedies, which

ſo great an Army, without a ſingle Soldier to guard it, and ſome time ago to confeſs this, at the earneſt Inſtance of *Torquatus*, a Man of the greateſt Weight and Sanctity? I will omit your loſing the greateſt Part of your Army, and attribute that to your bad Luck: But how can you account for diſmiſſing your Army? * What Commiſſion, what Law, what Decree of the Senate, what Precedent can you ſhew for that Conduct? Does this diſcover any thing but Fury, Ignorance of Men, Ignorance of Laws, of the Senate, of the Conſtitution? You talk of Madmen's mangling their own Bodies, but this mangling of Life, Reputation and Safety, is a Degree of Madneſs far ſuperior to that. Should you ſend your Family a packing, which belongs ſolely to yourſelf, your Friends would think you deſerved a *dark Room*; and had you been in your Senſes, would you have diſmiſſed the Security of the *Roman* People, and the Guards of the Province, without Authority from the Senate and the People.

But what did *your Counterpart*? after he had diſſipated all the great Plunder which he had ſqueezed from the Officers of the Revenue, and from the Lands and Cities of our Allies, when he

which appear to have been very often exhibited to the People.

* *Diſmiſſing your Army.*] The *Roman* Conſtitution did not admit of either levying or diſbanding Forces without Conſent of the Senate or People, who gave the Conſuls alone a Commiſſion for that Purpoſe.

he had buried a Part of that Plunder in the fathomleſs Abyſs of his Luſts, another Part of it in new and unheard-of Luxuries, and Part of it in the Purchaſes and Alterations * which he

* *Purchaſes and Alterations.*] It is always with great Diffidence that I offer any Conjecture of my own, as to the Senſe or Reading of my Author; but this Paſſage ſeems to have been ſo palpably miſunderſtood by all the Interpreters and Commentators upon it, that there is very little Merit in the Conjecture I am now to offer, even ſuppoſing it to be the plain and obvious Senſe of my Author.

The Original runs thus: *Partim (ſcil. Prædæ.) etiam in illis locis ubi omnia* DIRIPUIT, *emptiones, partim permutationes, ad hunc Tuſculani montem extruendum (ſcil. devoraſſent.)* The learned *Hottoman* ſays, that he believes a Negation is here wanting, elſe, ſays he, why is the Word *Emptiones* introduced? *Abramius* confeſſes the Paſſage is exceeding obſcure, and after puzzling a long Time about it, particularly on *Permutationes*, he leaves it much the ſame as he found it. *Hottoman* takes the Word *Permutationes* to ſignify the Courſe of Exchange, or ſomething to that Purpoſe. *Faernus* gives us an old Reading, which alters and deſtroys the whole Senſe. *Manutius* underſtands it in the ſame Senſe with *Hottoman*, and *Grævius* is ſilent as to the whole. The Order of Words from which I have tranſlated it, ſuppoſing the common Reading to ſtand, is as follows, *Cum emptiones devoraſſent partim* (pro partem *predæ) permutationes devoraſſent partim prædæ in illis locis, ubi diripuit omnia ad extruendum hunc Tuſculanum Montem.* So that what our Author ſays is no more, than that *Gabinius* had bought an Eſtate upon which he had reſolved to build an immenſe Houſe, and as ſome Buildings had been already erected there, which belonged to other Proprietors, he bought thoſe in, and either demoliſhed them, or kept them ſtanding, by altering them ſo as to agree with the favourate Plan of his great *Villa*.

This is a Caſe that happens every Day *here*, and appears to have been very common in *Rome*: For *Horace* uſes the Word *mutare* in the very ſame Senſe, and upon a ſimilar Occaſion with that which I have adopted as the Meaning of my Author, *viz.* *Diruit,*

he made in thoſe Places,. where he pulled down every Thing in order to rear this *Tuſculan* Mount; when he fell into Poverty; when that prodigious and unſufferable Fabrick was at a Stop, he ſold to the *Egyptian* King, * his own Perſon, the Badges of his Office, the Army of the People of *Rome*, the holy Interdiction of the Immortal Gods, the Anſwer of their Prieſts, the Authority of the Senate, the Commands of the People, with the Renown and Majeſty of their Empire.

THO' the Bounds of his Province were extended equal to his Deſires, equal to his Wiſhes, equal to the Price, equal to the Danger, at which he had ſet my Head, yet could he not confine himſelf to theſe. He brought the Army out of *Syria*. How was he juſtified in bringing

Diruit, ædificat, mutat *quadrata rotundis*.

The only Difficulty now lies in the Word *diripuit*, but I think there can be none, when we conſider that *diripere* ſignifies *diverſe & in varias partes rapere*, in its original Meaning, which is a Character extremely well applied to a wrong-headed Fellow who has the Rage of building upon him.

* *Egyptian King*.] The Story is as follows; *Ptolemy Auletes* was driven out of his Kingdom by his Subjects, for his Tyranny. He came to *Rome*, and petitioned the Senate to reſtore him. The *Sibylline* Books were inſpected, and theſe abſolutely prohibited the *Romans* from reſtoring an *Egyptian* Prince by Force of Arms. *Ptolemy* being diſappointed at *Rome*, applied to *Gabinius*, who was then Proconſul of *Syria*, and by giving him a large Sum of Money, prevailed with him to march his Army into *Egypt*, where he beat the *Egyptians*, took *Alexandria*, and reſtored the King.

bringing them out of their own Province? He enliſted himſelf as a Mercenary to attend the *Alexandrian* King. Could any thing be more ſcandalous than this? He came into *Egypt*: He fought againſt the *Alexandrians*. When did either this Order, or the People of *Rome* undertake that War? He took *Alexandria*. What could we further expect from his Madneſs, but that he ſhould ſend Letters to the Senate upon the Glory of his Exploits.

HAD he, upon this Occaſion, poſſeſs'd his Reaſon, had not his Fury and his Madneſs inflicted upon him that ſevereſt Vengéance which his Country and the Immortal Gods exacted of him; would he have preſumed, I will not ſay to leave his Province, but to draw out his Army, to enter into a War of his own Head, to advance into a Kingdom,† without Leave from the People and the Senate? All which are expreſly forbid by many ancient Laws, as well as the *Cornelian* Law upon Treaſon, and the *Julian*

† *Advance into a Kingdom.*] This was penal among the *Romans*, and no doubt was an excellent Piece of Policy, both to prevent the contagious Communication betwixt the Courts of Tyrants, and the Magiſtrates of a free People, and any Tampering betwixt them in Prejudice of the *Roman* Government. There is a very pathetic Application of a Paſſage out of *Sophocles* to this Purpoſe, which we are told *Pompey* made uſe of, when he was going to the Court of this *Ptolemy*'s Son, by whom he was murdered.

Οστις γαρ ως τυραννον εμπορευεται,
Κειν᾽ ου δουλος καν ελευθερος μολη

That is, *Whoever enters into the Court of a Tyrant becomes a Slave, tho' he went into it a free Man.*

lian Law upon Extortion. But I paſs over all this. Had he not arrived at the Height of Madneſs, would he have preſumed to have arrogated to himſelf that Commiſſion, * which *Publius Lentulus*, one of the beſt Friends of this Order, without any Heſitation, reſigned from a Motive of Religion, after he had received it both by the Authority of the Senate, and a fair Allotment; a Proceeding that even tho' *Religion* had not prohibited, yet was forbid by the Practice of *our Anceſtors*, by the Examples of *our Government*, and the ſevereſt Penalties of *our Laws*?

BUT as we have entered upon the Compariſon of our different Fortunes, I ſhall omit mentioning the Figure *Gabinius* muſt make at his Return, which tho' he himſelf has cut off, yet ſo ſtrongly am I convinced of his Impudence, that I expect he will return. If you pleaſe, let me compare *your* Return with *mine*. Such was mine, that from *Brundiſium*, all the Way to *Rome*, I beheld all *Italy* drawn out in one continued Body; nor was there a Country, a Corporation, a Prefecture, or a Colony, from which I was not publickly congratulated?. Shall I mention my Approaches? The Crowds of People

* *Arrogated to himſelf a Commiſſion.* The Senate once decreed, that *Publius Lentulus*, and *Q. Metellus* ſhould draw Lots for Provinces, and that he to whom *Cilicia* fell, ſhould reſtore *Ptolemy*, which was, no doubt, looked upon to be a very advantageous Job. The Allotment of *Cilicia* fell upon *Lentulus*, who declined it from a Principle of Religion.

ple that poured from their Towns? The Concourſe of ſubſtantial Inhabitants with their Wives and Children flocking together from their ſeveral Poſſeſſions? And the Days which, on my Approach and Reſtoration, were celebrated as if they had been the Feſtivals and Solemnities of the immortal Gods? One Day alone was like Immortality to me, the Day on which I returned to my Country, when I ſaw the Senate, and the whole *Roman* People come forth to meet me, when *Rome* herſelf * ſeemed almoſt to ſtart from her Foundations, that ſhe might advance to embrace her Preſerver. And ſuch was the Reception ſhe gave me, that not only Men and Women of all Kinds, Ages, and Ranks, of every Fortune, and of every Place, but even the Walls, the Dwellings, and the Temples of the City, ſeemed to wear an Expreſſion of Joy. In the following Days, the Prieſts, the Conſuls, the Fathers Conſcript placed me in Poſſeſſion of that very Houſe from which you had driven me, which you had plunder'd, which you had fir'd; and what never had been the Caſe before, † they came

* *When* Rome *herſelf.*] Tho' our Author, as a profeſſed Poet, ſucceeded but very indifferently, yet we find very noble Strokes of Poetry in his Orations, eſpecially when inſpir'd by the Remembrance of his own Honours in the State.

† *And what never had been the Caſe before.*] *Aſconius* is a little ſevere upon our Author, as if he had advanced ſomething as not Fact, and gives us ſeveral Inſtances of *Romans*, whoſe

to a Reſolution of rebuilding my Houſe at the public Coſt.

SUCH were the Circumſtances of my Return. Now in your Turn compare it with yours; when after loſing your Army, you brought nothing Home in the ſame Plight you carried it abroad, except your old Familiar, your Impudence. In the firſt Place, does any one know by what Road you came with your laurel'd Lictors? What Turnings and Windings, and round-about Ways did you purſue, while you ſearched out every forlorn Haunt? What Corporation beheld; What Friend invited; What Hoſt ſaluted you? Did you not prefer the Night to Day? Solitude to Company? An Inn to a City? So that you did not ſeem to return as a glorious General, but you were carried back as an obſcene Carcaſe out of *Macedonia!* As to your Arrival, it polluted *Rome* itſelf. Out! thou Diſgrace,* not to the *Calphurnian*, but even to the *Calventian* Race! Not to this City, but to the Corporation of *Placentia!* Not to your Father's Quality, but to your trowzer'd † Alliance! In what an Equipage did you come? Was there a Man, I will not

whoſe Houſes had been built at the public Expence. But I think the very Apology that Scholiaſt afterwards makes, reconciles this Paſſage to Fact: For *Cicero* was the only Perſon, whoſe Houſe, after being demoliſhed, burn'd and *conſecrated*, was ever rebuilt at the public Charge.

* *Out! thou Diſgrace.*] *Piſo*, by the Father's Side, was of a noble Family, but it had been allied very meanly. *Cicero* ſays that he was a Stain to all he was ſprung from even the meaneſt of his Name.

† *Trowzer'd.*] Orig. *Braccatæ*, alluding to the Dreſs of the *Gauls*, of whom *Piſo* was deſcended by the Mother.

not ſay of theſe, and our other Citizens, but of your own Deputies who came out to meet you?.

FOR *L. Flaccus*, a Man deſerving a far better Commiſſion than yours, and more fitted for preſerving the State, by thoſe Counſels in which he was joined with me in my Conſulate, was with me when Somebody came and told us, that you was ſeen not far from the Gate, ſtrolling about with your Lictors. I likewiſe know that my Friend *Quintius Martius*, one of the braveſt Men alive, and compleatly Maſter of military Diſcipline, one of thoſe Lieutenants, by whoſe Courage in Battle you was ſaluted Emperor, when you was not far from *Rome*, was loitering away his Time at his own Houſe, upon that Approach of yours to the City. But to what Purpoſe am I counting up thoſe who did *not* come out to meet you? I can ſay that ſcarce one, even of the moſt courteous Tribe of Candidates, met you, tho' they had been all of them generally apprized and invited that very Day, and ſeveral Days before.

SHORT Gowns were provided for the Lictors ready at the Gate, which exchanging for their military Coats, they gave a new Face to their General's Cavalcade. Thus a Governor of *Macedonia*, at the Head of ſo great an Army, and poſſeſſed of ſuch a Province, after three Years, conveyed himſelf into the City, in ſuch a Manner, that no Pedlar's Return ever was ſo private. Yet this Gentleman, who is ſo very well provided for his Defence, reproaches me upon this Head. After I had ſaid, that he entered by the *Cælimontane* Gate, like a Man of Mettle, he of-

fered to lay a Wager with me, that he entered by the *Eſquiline* Gate. As if this was what I was either bound to know, as if it had been a Thing that you had ever heard of, or as if it had the leaſt Relation to the Affair in hand, thro' what Gate you entered, while you admit it was not the triumphal One, which before you was always open to *Macedonian* Proconſuls. You was found to be the Man, the only Exception of one veſted with Conſular Command, who did not Triumph upon his Return from *Macedonia*.

BUT you hear, Fathers Conſcript, the Voice of a Philoſopher. He denies that he was ever ambitious of a Triumph. Thou Execration, thou Plague, thou ſpotted Plague! While you was aboliſhing the Senate, ſelling the Authority of this Order, hiring out your Conſulate to a Tribune of the Commons, overturning the Conſtitution, and betraying my Life and Welfare, all for the ſingle * mercenary Conſideration of a Province: If you was not ambitious for a Triumph, with what Object of Ambition can you ſay you was fir'd? For I have often ſeen Men, whom both I and others thought too ambitious of a Province, cloak and excuſe their Ambition, under the Pretext of a Triumph.

THIS

* *Single.*] Orig. *Una*, which the Commentators want to ſtrike out. *Grævius* is indeed for keeping it in, but does not give the true Reaſon why it ought to ſtand. UNA, *hoc ſola Mercede*, ſays he, & *nulla alia*, whereas the *Una* is here put in Oppoſition to all the ſeveral Particulars of *Piſo*'s Guilt, which he recounts in the ſame Sentence, and thereby gives it a prodigious Beauty. Therefore in the common Reading, a *Comma* ought to be put after (*meam.*)

THIS was the Manner in which *D. Sillanus*, when Conſul, and my Collegue, uſed to talk in this Aſſembly; and indeed no Man can juſtify his Ambition to be at the Head of an Army, and his avowedly ſoliciting ſuch a Command, but by covering it with the Earneſtneſs of his Deſire to triumph. Suppoſing the Senate and the People of *Rome* had forced you to put yourſelf at the Head of an Army, tho' you was not ambitious of taking the Command, tho' you even declined undertaking the War, yet it would diſcover the Narrowneſs, the Meanneſs of thy Spirit, ſhouldſt thou deſpiſe the Honour and Dignity of a full Triumph.

FOR as it ſhews Lightneſs to catch at every Rumour, or to purſue all the Bubbles of Glory, ſo it diſcovers an empty Mind, ſhunning the Light and Luſtre of Life, to refuſe true Glory, which is the nobleſt Harveſt of real Virtue. But when, the Senate not only did *not* require or force, but were forced into it themſelves againſt their Inclination; when not only without all Manner of Solicitation from the Zeal of the *Roman* People, but without one free Suffrage being given in your Favour, that Province was made the Earneſt-Money, not for the unhinging, but for the utter Ruin of your Country: And when it was ſtipulated as the Reward of all your Crimes, if you would deliver up the whole Conſtitution into the Hands of profligate Ruffians, that in Conſideration of this, *Macedonia* ſhould be adjudged to you, with what Bounds to it yourſelf ſhould preſcribe While you was draining the Treaſury; while

you was robbing *Italy* of her Youth ;* while you was paſſing a wide Extent of Sea † in the Winter : if all this Time you was looking with Contempt upon a Triumph, thou deſperate Ruffian, what Luſt could be ſo blind as to hurry thee on thro' all theſe Scenes, other than that of Plunder and Rapine ?

Cn. Pompeius is not now ‡ at Freedom to follow your Advice ; for he has err'd ; he has not reliſhed your Philoſophy ; like a Fool he has already thrice triumph'd. *Craſſus*, || I bluſh for you. After you had finiſh'd a moſt formidable War, how could you ſhew ſo much Earneſtneſs to have that laurel Crown decreed you by the Senate ? *P. Servilius*,§ *Q. Metellus*,*

* *While you was robbing* Italy *of her Youth.*] Our Author touches upon the ſame Circumſtance in his Oration for the Conſular Province. *Exercitus ille noſter*, ſays he, *Superbiſſimo delectu & duriſſima conquiſitione collectus*

† *While you was paſſing a wide Extent of Sea.*] Orig. *Cum Mare vaſtiſſimum hieme tranſibas.* A common Reader would be apt to imagine, from this Expreſſion, that the Sea muſt be as large as the *Atlantic* Ocean, whereas it appears to have been no more than the common Paſſage betwixt *Brunduſium* to *Apulia*, and *Durazo* or *Dyrrhachium*, which may be about 30 Leagues over.

‡ Cn. Pompeius *is not now.*] All that follows here, the Reader will eaſily perceive to be Irony. Our Author tells us, in his Oration for *Cornelius*, that *Pompey* had had as many Triumphs as the World was divided into Parts.

|| *Craſſus.*] He had juſt then finiſhed the War againſt *Spartacus*, who had raiſed a Rebellion at the Head of Slaves and Fugitives. *Craſſus* on that Account declined a Triumph and had an Ovation, but by a Decree of the Senate, inſtead of a Myrtle Crown he was permitted to wear a Laurel one.

§ *Servilius.*] He triumph'd over the *Iſauri*, from thence he had the Appellation of *Iſauricus*.

lus,* *C. Curio*,† *P. Africanus*,‡ why did ye not liſten to this learned, this philoſophical Gentleman, before you were led into ſuch a Miſtake? My Friend, *C. Pontinus* || himſelf, is not now at Liberty to recede, for he is tied down by the holy Rites § already commenced. Ye fooliſh *Camilli*, *Curii*, *Fabricii*, *Calatini*, *Scipiones*, *Marcelli*, *Maximi!* Diſtracted *Paulus!* Stupid *Marius!* And what thoughtleſs Men were the Fathers of both theſe our Conſuls for triumphing!

BUT as what is paſſed cannot be recalled; why does not my *Epicurean* Poppet, my Compoſition of Loam and Clay,** inſtruct his Son-in-Law,††, that illuſtrious and excellent General, in thoſe noble Precepts of his Philoſophy? That Gentleman, believe me, is influenc'd by mere Glory; he is warm'd, he burns with Ambition for a compleat and a noble Triumph. He has not been taught the ſame Doctrine with you.

* *Q. Metellus*] He triumph'd over the *Cretans*, and was therefore call'd *Creticus*.

† *C Curio*.] He had a Triumph over *Macedonia*.

‡ *Pub. Africanus*.] This probably ought to be *L. Afranius*, who was Father-in-Law to *Pompey*, and was Conſul in the Year of *Rome* 693.

|| *C. Pontinus*.] He triumphed over the *Allobroges*.

§ *The holy Rites*.] Several religious Ceremonies were gone thro' by thoſe who had the Honour of a Triumph, before they could enter the City.

** *My Compoſition of Loam and Clay*.] Orig. *Ex Arilla & Luto fictus*. This is oppoſed to an Expreſſion the *Romans* had for a dapper neat Gentleman, ſuch a Man they called, *è cera fictus*. Hence Somebody called *Tiberius a Piece of Clay temper'd with Blood*.

†† *His Son-in-Law*.] Meaning *Cæſar*, who was afterwards the famous Dictator.

Send your Treatiſe to him. But at preſent, in caſe you ſhould be able to meet with him, bethink yourſelf what Terms you are to uſe for repreſſing and extinguiſhing the Flame of Ambition, that is now lighted up in his Soul. You, who are a Man of Moderation and Wiſdom, will ſurely prevail over one who is tranſported with a Paſſion for Glory. Your Learning will get the better of his Ignorance; the Father-in-Law will prevail over his Son-in-Law. For as you are perfectly well verſed in the Arts of Perſuaſion, a Man of Humour, and juſt come well-poliſh'd from the Lecture, you will tell him, "*Prithee* Cæſar *what makes thee ſo* "*much in Love* with Thankſgivings ſo often de- "creed, and for ſo many Days? Mankind are "very much miſtaken in this Point, theſe are "Things that the Gods neglect; for the Gods, "as our divine *Epicurus* tells us, *never take* "*the leaſt Concern either in Favour or in Pre-* "*judice of any Man.*" You may cavil on this Head, but take my Word you'll never convince: For you ſhall ſee that the Gods both have been and are offended at yourſelf.

BUT now turn to the other Lecture. Let us have a Diſſertation upon a Triumph. "And "after all, what is there in that Chariot? Why "are thoſe Captive Princes led before it? What "is the Meaning of thoſe Repreſentations of "Towns? That Gold? That Silver? Thoſe "Lieutenant-Generals and Colonels on Horſe- "back? Thoſe Shouts of the Soldiers? That "Cavalcade? Take my Word for it, all is Va- "nity and empty Shew, ſcarce fit to amuſe a

"School-

" School-Boy; all that catching at Applauſe,
" being carried thro' the Streets, and expoſing
" one's ſelf to be gazed on by the Mob. There
" is no ſolid Satisfaction in all theſe Amuſe-
" ments; there is nothing that can contribute
" to the Gratification of the Senſes.
" *T. Flamminius*, *L. Paulus*, *T. Didius*, and
" a great many more, tickled with this empty
" Conceit, triumph'd upon their Return from
" this very Province, which you ſee I have left
" ſo heroically, that I ſpurned away the *Mace-*
" *donian* Laurel at the *Eſquiline* Gate. With
" fifteen tatter'd Companions, I came, very
" dry indeed I was,* to the *Cælimontane*-Gate,
" where my Freemen had two Days before
" hired my illuſtrious Excellency a Houſe;
" and if that Houſe had not chanced to be
" empty, I ſhould have even pitched my Tent
" in the Field of *Mars*. In the mean Time,
" *Cæſar*, I have and ſhall have Money lying
" for me at Home, after neglecting all the
" Pageantry of thoſe triumphal Toys. Imme-
" diately, in Obedience to your Law,† I re-
" turned my Accounts to the Treaſury; but
" this was the only Thing in which I did obey
" that Law: Which Accounts, if you ſhall
" audit, you will be ſenſible that nobody has
" profited more than myſelf by Letters: For
" they are wrote ſo cleverly, and in ſo Clerk-
" like

* *Very dry indeed I was.*] This is a very humorous Incident, with what follows, and throws *Piſo* into a very ridiculous Light.

† *In Obedience to your Law.*] This was the *Lex Julia de pecuniis repetundis*.

" like a Manner, that the Accomptant who " returned them to the Treaſury, having wrote " them fairly out, ſcratching his Head, with " his Left-Hand; HERE,‡ ſays he, mutter- " ing to himſelf, *is the Account ſure enough,* " *but where the Plague is the Caſh?*" If you make but this Speech, I will engage for it, you will be able to ſtop *Cæſar*, even tho' he is putting his Foot into his Triumphal Car.

THOU ſneaking, dirty, naſty Scoundrel, abſolutely forgeting thy Father's Quality, ſcarcely remembering thy Mother's. Thou ſomewhat, I don't know what, ſo grovelling, ſo mean, ſo raſcally, ſo ſordid, that you diſgrace even your Grandfather, who was a *Milaneſe* Beadle. *L. Craſſus*,* the wiſeſt Man in our State, meaſured almoſt every Inch of the *Alps* with his Spears, that where he was not able to find

‡ *Here is the Account.*] This is a Verſe from the *Trinummus* of *Plautus*.

* *L. Craſſus.*] We have an Explanation of the Circumſtance here mentioned in our Author's Treatiſe, *De Inventione*, *L.* ii. *c.* 37. *L. Licinius Craſſus Conſul quoſdan in citeriore Gallia, nullo illuſtri, neque certo duce, neque eo nomine, neque numero præditos, ut digni eſſent qui hoſtes populi Romani dicerentur; quod tamen excurſionibus & latrociniis infeſtam Provinciam redderent, conſectatus eſt & confecit. Romam redit triumphum ab Senatu poſtulat.*

We have an Account of what our Author ſays here of *Craſſus* and *Cotta* from *Aſconius*, who tells us, that after the Senate had decreed a Triumph to *Cotta*, he died the Day before it was to be celebrated, of the breaking out of a Wound which he had received ſeveral Years before. That *Q. Scævola*, the Collegue of *Craſſus*, obſerving the great Credit the latter was in, and that it had prevailed with the Senate to decree him a Triumph, interpoſed a *Senatus Conſultum* which deprived him of it.

find an Enemy, he might at leaſt find a Subject for Triumph. *C. Cotta*, a Man of the greateſt Abilities, was fir'd with the ſame Ambition, tho' without any declar'd Enemy to employ his Arms. Neither of thoſe Generals triumph'd, becauſe the one was deprived of that Honour by his Collegue, the other by Death. Some time ago, you made yourſelf merry with *M. Piſo*'s* Ambition for a Triumph, which you ſaid was very diſtant from your way of thinking. Tho' the War he had managed had been far leſs conſiderable than you have repreſented it, yet he did not think that Honour was to be deſpiſed. You who have more Learning than *Piſo*, more Knowledge than *Cotta*, greater Abilities, Genius, and Wiſdom than *Craſſus*, deſpiſe all thoſe Circumſtances which thoſe *Dunces*, as you call them, accounted glorious.

BUT tho' you blame them for being ambitious for Laurels, tho' they had been at the Head either of no Wars, or ſuch as were very inconſiderable; yet you, who have ſubdued ſuch mighty Nations, and performed ſuch glorious Exploits, ought not to have ſlighted the Badges of your Valour, thoſe Fruits of your Labours, and Rewards of your Dangers. Nor indeed, tho' wiſer than *Themiſta*,‡ did you ſlight them; no, you did not chuſe that the Reproaches of the Senate ſhould knock againſt that

* *M. Piſo.*] This was the *Piſo*, who, being adopted into the *Puppean* Family, was called *Puppius Piſo*. He triumph'd over the *Spaniards*.

‡ *Themiſta.*] This *Themiſta* was a learned Lady who is mentioned by *Arnobius* to have taught Philoſophy.

that brazen Skull of yours. Since I have done myſelf the Diſcredit to compare myſelf with you, you may now perceive my Departure, my Abſence, and my Return, were ſo infinitely preferable to yours, that they crown'd me with immortal Glory, and branded you with indelible Infamy.

AND now, as to this our daily and ordinary Employments in the Town; will you preſume to prefer your Figure, your Popularity, the Number of your Dependents, your Practice at the Bar, your Advice, your Aſſiſtance, your Authority, your Abilities in the Senate, to mine, or, to ſpeak more properly, to thoſe of the moſt *deſpicable*, the moſt *deſperate* Man alive. To begin: The Senate hates you, which you yourſelf own it has Reaſon to do, as you was the Demoliſher and the Deſtroyer of its Dignity and Authority; nay, of its very Order and Name. The *Roman* Knights cannot bear to ſee you, ſince under your Conſulate * *L. Ælius*, the moſt accompliſh'd Man of that Order, was baniſhed. The Commons of *Rome* with for your Damnation, for you threw Infamy upon them ‡ for what you did by means of Robbers and Slaves againſt me: All *Italy* curſes you,

* *L. Ælius.*] This was *L. Ælius Lamia*, to one of which Family *Horace* addreſſes an Ode: And was ordered by *Piſo* and his Party not to come within a Mile of *Rome*.

‡ *You threw Infamy upon them.*] *Clodius* and his Friends obtained a *Plebiſcitum* againſt *Cicero* in his Exile; which he very artfully inſinuates here to have been only obtained by means of Rogues and Rapparees, and that the honeſt People of *Rome* knew nothing of the Matter, tho' it had paſſed in their Name and by their Authority.

you, who ſo haughtily rejected their Decrees and their Prayers.

Now, make the Experiment if you dare, and ſtand the Proof of ſo violent and univerſal a Hatred. Very ſpeedily will be exhibited, * the moſt pompous and magnificent Shews that ever yet were ſeen; and I firmly believe that ever will be ſeen hereafter. Show away before the People; Truſt yourſelf in the Theatre. Do you fear to be hiſs'd? Where then is your Philoſophy? Are you afraid of being ſhouted at? But a Philoſopher is above minding that too. You are afraid they ſhould lay Hands upon you, for your Philoſophy tells you that *Pain* is *Evil*; but *Reputation*, *Diſgrace*, *Infamy*, *Turpitude* are only *impertinent Words*. But I don't diſpute this. He will not dare to come to the Plays. He will not be preſent at a public Entertainment, to ſhare in the Dignity attending it, but merely for his own Diverſion, unleſs perhaps when he ſups with *P. Clodius*, I mean with his own dearly beloved Companions.

He will leave the Plays to us who are *Dunces*.† For he uſes in his Diſputation to prefer the Pleaſures of his Belly to all the delightful Senſations of the Eyes and the Ears. For though formerly you only thought him a roguiſh,

* *The moſt pompous Shews.*] Theſe were the Shews exhibited by *Pompey* when his Theatre was conſecrated; and which, if we may believe what is ſaid of them by *Roman* Authors, were anſwerable to what *Cicero* here ſays of them.

† *Dunces.*] Orig. *Idiotæ*. A Word to ſignify one not read in Philoſophy.

a roguiſh, malicious Pickpocket; yet now he appears rapacious, mean, ſtubborn, proud, falacious, treacherous, impudent, and preſumptuous; but you are to know beſides, there is not a more luxurious, a more luſtful, a more ſenſual, a more deteſtable Thing in the World than himſelf. Yet there is a Luxury of which you are never to ſuſpect him.

FOR tho' all Luxury is vicious and ſcandalous, yet there is a certain Species of it more becoming a Man of Senſe and a Gentleman. There is nothing about him that is genteel, nothing that is elegant, nothing that ſhews Taſte: And let me do Juſtice to my Enemy, he is extravagant upon no Article but his Luſts. He has not a Piece of embоſſed Plate * in his Cupboard; he has indeed ſwinging Diſhes, and thoſe, that he may not ſeem to deſpiſe his Countrymen, are *Placentine* Ware. His Table is furniſhed not with Lobſters and Fiſhes, but with Plenty of Salt, ſtinking Meat. You are waited upon with ſlovenly Servants; ſome of them old Fellows. The ſame Perſon ſerves in the double Capacity of his Cook and Porter: He keeps no Baker, nor any Cellar. He buys his Bread and Wine from a Stall and

* *He has not a Piece of emboſſed Plate.*] The whole of this Deſcription is extremely humorous, and with a very little Alteration would make a very good Figure even in *Engliſh* Comedy.

and a Booth.* His Gueſts are *Greeks*; five, and ſometimes more in one of his little Beds,† while he has one all to himſelf. They drink as long as it is furniſhed from the Upper Couch.‖ When he hears the Cock crow,§ he

* *He buys his Bread and Wine from a Stall and a Booth.*] If ſome over-nice Readers did not look upon it as too low an Expreſſion for *Cicero*, the Expreſſion in the Original here might be tranſlated, He buys his Bread and drinks out of a Chandler's Shop.

† *Five, and ſometimes more in one of his little Beds.*] This was very inelegant, the uſual Number in a Bed was but three, and the Number at one Table with People of Faſhion and Taſte ſeldom exceeded nine, or fell ſhort of three. We have a curious Paſſage to that Purpoſe in *Aulus Gellius*, 13. 11. from the *Menippæan* Satires of *Varro*.

Neſcis quid veſper ſerus vehat.

" Dicit Convivarum numerum incipere oportere a " Gratiarum numero, & progredi ad Muſarum, ideſt, pro- " ficiſci a tribus, & conſiſtere in novem; ut, cum pau- " ciſſimi convivæ ſunt, non pauciores ſint quam tres; " Cum plurimi, non plures quam novem. Nam multos, " inquit, eſſe non convenit, quod turba plerumque eſt tur- " bulenta: Ut Romæ quidem conſtat, ſed & Athenis nuſ- " quam plures cubant."

From this Paſſage probably aroſe the famous Saying of a *Britiſh* Prince, " That he would never chuſe to have his " Company more in number than the Muſes, nor fewer " than the Graces."

‖ *The Upper Couch.*] The Landlord's Place was at the Head of the Table; and Commentators think that *Cicero* mentions this Circumſtance, as if *Piſo* had diſtributed all the Wine to his Gueſts with his own Hand. But I think this is too bald a Meaning for the reſt of the Humour in this Deſcription. Therefore I ſhould be inclined to believe, if the Words could be brought to bear it, that *Piſo* and his Gueſts drank, till he was ſo over-loaded that he diſcharged it from the Upper Couch.

§ *When he hears the Cock crow.*] This is a Pun upon the Word *Gallus*; but a very pardonable Pun, *Piſo*'s Grandfather being a *Gaul*.

he imagines his Grandfather is riſen from the Dead, and then he orders the Board to be removed.

IT may be aſked me, how come you to know all this? Upon my Honour I will paint nobody out merely for the Sake of Abuſe, eſpecially a Man of Wit and Learning. (And ſuch Men I cannot hate, even tho' I would.) There is a certain *Greek* * who lives with this Fellow *Piſo*, who, to tell the Truth, is an ingenious Man, for I know him to be ſuch, but it is when he is with other People than him, or by himſelf. This Perſon when he ſaw *Piſo*, then a young Man, wearing that boding diſcontented Phyſiognomy, did not decline his Friendſhip, eſpecially as he was courted to it. He entered into an Intimacy with him, in ſuch a Manner that they lived with one another, and were almoſt inſeparable. I am not now ſpeaking to the Illiterate; for I know this Aſſembly to be compoſed of Men of the deepeſt Learning, and the moſt polite Knowledge. You ſurely have heard, the *Epicurean* Philoſophers maintain, that every thing which Mankind ought to wiſh for is to be valued according to the Degree of Pleaſure it affords.

WHETHER this Doctrine is right or wrong, it is nothing to us, or if to us, it is nothing to our

* *There is a certain* Greek.] We have here a Picture of the melancholy Condition of the moſt learned and ingenious Foreigners in *Rome*. This *Greek*'s Name, as we underſtand from *Aſconius*, was *Philodemus*, a Man of great Capacity and Genius.

our preſent Purpoſe; yet this looſe, ſlippery Way of Talking very often trips up the Heels of young People whoſe Heads are not very well ſettled. Therefore this Stallion no ſooner heard *Pleaſure* ſo much extolled by a Philoſopher, but, without examining further, he ſo tickled up all his ſenſual Appetites; he was ſo rejoiced * at his Way of Speaking, that he thought he had found in him not a *Director of his Morals*, but an Authorizer of his Luſts. Upon this the *Greek* began to *divide*, † and to *diſtinguiſh* upon the *Senſe* in which theſe *Maxims* were to be *underſtood*. But the lame Pupil, once he had got his Cue, ‡ would

* *He was ſo rejoiced.*] In the Original it is, *Sic ad illius hanc Orationem adhinniit.* That is, He ſo neighed at his Way of Speaking. Our Author here takes the Metaphor from an *Admiſſarius*, or Stoned-Horſe, who ſerved as a Stallion; but I could not venture to give a literal Tranſlation of this Phraſe.

† *The* Greek *began to divide.*] We have here an excellent Picture of the Danger that a looſe Way of Talking or Writing may have upon the Morals of young People. The firſt Impreſſions ſtrike the deepeſt. It is very difficult, if not impoſſible, to efface it by any after Diſtinctions or Diviſions.

‡ *Once he had got his Cue.*] The whole of this Paſſage runs thus in the Original, *Græcus primo diſtinguere atque dividere illa, quemadmodum dicerentur: Iſte Claudus, (quomodo aiunt) pilam retinere quod acceperat, teſtificari.* But *Urſinus*, I think, with great Reaſon, has given it another Reading and Punctuation. *Iſte (claudos quemadmodum ajunt pilam) retinere quod acceperat teſtificari, tabulas obſervare velle.* The Alluſion of a lame Man retaining the *Pila* either belongs to Tennis-play, or, the *Pila* ſignifies a Poſt. And ſays *Cicero*, a lame Man, when he catches hold of one Poſt, as he is walking the Streets, always endeavours to catch hold of another, and ſo help himſelf along.

not part with it, he took Witneſſes and ſealed up their Depoſitions, that *Epicurus* was expreſsly of Opinion no ſuch thing as Pleaſure can be underſtood without bodily Senſations, and I grant it is ſo.* In ſhort, our polite *Greek*, *with his very good Breeding*, did not chuſe to battle it too much againſt a *Roman Senator*.

BUT the Perſon I ſpeak of has not only Philoſophy to recommend him, but even Learning, which moſt other *Epicureans* are ſaid to neglect. Beſides, he has made a Poem, which was ſo humorous, ſo pretty, ſo elegant, that nothing could be ſmarter. Were one to take this Poem to Pieces, it would do him but very little Diſcredit, and that not as a *ſcandalous profligate, preſumptuous Wretch*, but as a *Greekling*,† as a *Flatterer*, and as a *Poet*. Being but a *Greek* and a *Stranger*, he came, or rather he fell into the Hands of this Fellow, by miſtaking that Look which has deceived this great, this mighty State. He could not diſengage himſelf when once he was inveigled in ſo cloſe a Familiarity, and, at the ſame time he was afraid of being reproached as fickle.

* *I grant it is ſo.*] There is an Obſcurity here in the Original, which makes it very ſuſpicious that the Place is mutilated.

† *As a* Greekling.] This proves what I have taken notice of elſewhere, that the Profeſſors of the fine Arts were under great Diſadvantages, when not *Roman* Citizens. And that no Merit, no Learning, no Genius in his Way, tho' ever ſo great, could reſcue the Profeſſor from Contempt, unleſs he was in a Capacity to apply his Talents to the Service of the Public.

fickle. Being intreated, invited, forced to it, he wrote ſo much to this Fellow upon the Subject of himſelf, that he painted all his Luſts, all his Intrigues, all the kinds of his Suppers and Entertainments, in the moſt delicate Verſes.

If any one ſhould chuſe to read thoſe Verſes, he may view the Life of *Piſo* as it were in a Mirrour; I would now rehearſe ſome of them that are very much read and repeated, did I not fear, that the Nature of the Strain, in which I am now ſpeaking, would be very inconſiſtent with ſuch a Manner. At the ſame time, I am unwilling to detract the leaſt from the Merits of their Author, who, if Fortune had directed him to a better Pupil, would perhaps have been more reſerved and modeſt. But *Neceſſity* has forced him into this manner of Writing, which is extremely unworthy a Philoſopher: For Philoſophy is ſaid to contain the whole Syſtem of Virtue, of ſocial Duties, and of Moral Living. A Doctrine, which, whoever profeſſes, ſeems to me to ſupport a moſt awful Character. But the ſame *Neceſſity* defiled him with the Filth, and the Stains of that impure and intemperate Brute, while he did not know what he meant when he gave himſelf out for a Philoſopher. For when he had praiſed the Conduct of my Conſulate, * I thought ſuch Praiſes *diſgraced* me,

* *The Conduct of my Conſulate.*] Though our Author ſhew'd by the Verſes he inſerted here, that he was no very good

as they came from ſo *diſgraceful* an Author. *It is not Envy*, ſays he, *that has hurt you, but your Verſes.* But the Puniſhment which was decreed under your Conſulate was too ſevere either for a wretched Poet or a free Citizen. *But you wrote* LET TO THE GOWN THE SWORD GIVE WAY. And what if I did? *Why this raiſed all the Perſecution againſt you.* But I do not think it ever was inſerted into that Epitaph which under your Conſulate was engraved upon the Tomb of this Conſtitution, BE IT THEREFORE DECREED AND ENACTED * THAT SINCE M. CICERO HAS MADE VERSES: No, it ran, SINCE M. CICERO HAS BROUGHT TO JUSTICE——

BUT as you are a Grammarian, not in the Stile of *Ariſtarchus*,‡ but of *Phalaris*,‖ and as

good Poet; yet this Paſſage is a Proof that he had a great deal of Wit; and if we are to believe him, *Piſo* prov'd himſelf to be a worſe Critic than he was a Poet.

* *Be it therefore decreed and enacted.*] Orig. *Velitis, jubeatis et quod M. Cicero.* I am intirely of Opinion, that this was the Form in which the People's Sentences of Baniſhment began, and if ſo, it adds a great deal of Strength to our Author's Ridicule upon *Piſo*.

‡ *Ariſtarchus.*] This was a Grammarian, who when he did not like a Verſe of *Homer*, marked it with an Aſteriſk as ſpurious. We are told by *Suidas* of an incredible Number of Treatiſes compoſed by this Grammarian, whom *Vitruvius* calls the Chief of his Profeſſion. *Cicero* mentions him in his familiar *Epiſt. B.* III. 9. *Ut enim Ariſtarchus Homeri verſum negat, quem non probat, ſic tu (libet enim mihi jocari) quod diſertum non erit, ne putaris meum.*

‖ *Phalaris.*] This was the famous Tyrant, who was himſelf a Man of great Wit and Learning. Our Author here alludes a little to his Difference with the Poet *Steſichorus.*

as we have found you not criticizing the Badneſs of the Poem, but violently perſecuting the Perſon of the Poet, I ſhould be glad to know what Fault you find with that ſame Verſe, LET TO THE GOWN THE SWORD GIVE WAY. *What*, ſay you, *Is the greateſt of our Generals* * *to give Way to your Gown?* Thou Aſs, am I now to teach thee thy Alphabet? Why, you are not to be talked into this, you ought to be drubbed into it. I did not mean this very Gown I now wear, nor the Arms, the Shield, or the Sword of any one Commander; but *the Gown* in general, as being the Badge of *Peace* and *Tranquility*. I ſpoke in a poetical Manner, that War and Tumult was to give Way to Peace and Tranquility.

ASK your Friend the *Greek Poet*: He will approve of it, and own it to be an uſual Figure in Writing; without being in the leaſt ſurprized at your utter Ignorance. But, ſays he, you founder in the other Part of the Line, AND LAURELS YIELD TO LAUD.† Now, Sir, I am your moſt obliged humble Servant; for I ſhould have founder'd, had I not been relieved by you. For when thou, thou trem-

* *Is the greateſt of our Generals.*] Meaning *Pompey* or *Cæſar*.

† *And Laurels yield to Laud.*] Orig. *Concedat. Laurea laudi. Quintilian*, for the Honour of his beloved Maſter, changes *Laudi* into *Linguæ*, but the beſt Manuſcripts read it *Laudi*, which makes it more of a Piece with the famous Specimen of *O fortunatam natam, me Conſule, Romam*, and is more agreeable with what immediately follows after, where he repeats the Word *Laudi*.

bling white-liver'd Coward, with thoſe moſt plundering Hands, had thrown away at the *Eſquiline* Gate, the Laurel which was plucked from the bloody badges of thy Diſtinction, you ſhewed *that the Laurel had yielded, not* only to the moſt *ſublime*, but to the moſt *trifling* Merit in Eloquence. And yet, thou Ruffian,* you want that this ſhould be underſtood in ſuch a Manner, as if *Pompey* was become my Enemy by that Line; that if the Line has been of Prejudice to me, I may ſeem to have courted my Ruin from the Perſon to whom it gave the Umbrage.

I SHALL not here undertake to ſhew, that this Verſe had no Relation to that great Man: Nor that it never cou d have been my Intention to abuſe, in a ſingle Line, the Perſon, whom, as far as I was capable, I had celebrated in many Speeches and in many Writings. But ſuppoſing him to be offended, will he not counter-balance one little Line with the many Volumes I have wrote in his Praiſe? Suppoſing he was piqu'd, will ſo ſmall a Trifle as a Verſe make him wreak ſo dreadful a Reſentment againſt the Life, I will not ſay of one who loves him dearly, nor of one who has been ſo devoted to his Perſon, nor of one who has ever been ſo devoted to the Public, nor of a Conſular, nor of a Senator, nor of a Citizen, nor of a Gentleman, but *of a Man?*

DOST

* *And yet thou Ruffian.*] *Abramius* here very ſenſibly obſerves, that our Author's Manner always leads him to riſe into ſomewhat that is very ſevere, and very ſerious after he has jok'd a little.

DOST thou underſtand *what*, *before whom*, or *of whom*, you talk; you link thoſe noble Perſonages to thy Villanies, or to thoſe of *Gabinius*, and you do it publickly too. For, a little while ago, you ſaid *that I was engaged againſt thoſe whom I deſpiſed; that I had not touched upon thoſe who have more Power, and with whom I had more Reaſon to be offended,** Theſe are indeed Perſonages, for every Body ſees whom you point at, who tho' they have not all of them the ſame Views, yet all their Views are agreeable to me.

Cn. Pompeius always had the tendereſt Regard for me, tho' many oppoſed the Zeal and the Love he ſhewed me, he always eſteemed me moſt worthy of his Intimacy, and always promoted not only my *Safety*, but even my *Dignity* and my *Honours*. Your Rogueries,† your Villainy, your calumnious Reports of my Treachery, and his Dangers ſo infamouſly forged by you, and by thoſe, who abuſing their Familiarity with him, fill'd his Ears, at

* *And with whom I had more Reaſon to be offended.*] Meaning *Cæſar* and *Pompey*, and perhaps *Craſſus* too. 'Twould appear by this Paſſage, and what immediately follows, that there had been ſome Differences about this Time among thoſe great Men.

† *Your Rogueries.*] We have a full Explanation of the Paſſage hinted at here in our Author's Oration for *Sextius*. "Pompeium domi meæ certi homines ad eam rem "compoſiti monuerunt, ut eſſet cautior: Ejuſque vitæ a "me inſidias apud me domi poſitas eſſe dixerunt: Atque "hanc ſuſpicionem alii literis mittendis, alii Nuntiis, alii "coram ipſe excitaverunt, ut ille, cum a me certe nihil "timeret, ab illis, ne quid meo nomine molirentur, ſibi "cavendum putaret.

your Inſtigation, with the moſt ſcandalous Reports. Your Eagerneſs for Provinces occaſioned * me to be excluded, and all thoſe who wiſhed well either to his Glory, or to the Safety of his Country, to be debarred of all Acceſs or Converſation with him.

ALL theſe Circumſtances concurring, prevented him from acting according to his own declared Judgment, while a Set of People, tho' they never were able to alienate his Affections from me, retarded him from giving me his Aſſiſtance. Did not the then Prætor *L. Lentulus*; did not *Q. Sanga*; did not *L. Torquatus* the elder;† did not *M. Lucullus* come to you?

* *Occaſioned me to be excluded.*] If we believe *Plutarch*, *Pompey* acted a very ſneaking Part on this Occaſion; for he retired to his Eſtate at *Alba*, and was ſo much aſhamed, and afraid of ſeeing the Man to whom he lay under ſo great Obligations, that he could not face him, but ſlipt out at the Back-door when he heard *Cicero* was coming thither.

† *L. Torquatus.*] *Salluſt* hints at two Conſpiracies in which *Catiline* was engaged, and *Suetonius* mentions the ſame in his Life of *Julius Cæſar*. "*Piſo*, *Catiline*, and "*Antonius*. had concerted to murder the Conſuls *L. Cotta*, "and *L. Torquatus* on the firſt of *January*, and then that "*Piſo* ſhould be ſent as Prætor to *Spain*, with an Army "to take Poſſeſſion of both the *Spains*, but the Plot being "diſcovered, the Execution of it was put off.

"*Cn. Piſo*, *Catilina*, & *Antonius*, circiter nonas Decembris, ſays *Saluſt*, Conſilio communicato parabant "in Capitolio Kalendis Jan. L. Cottam & L. Torquatum Conſules interfice, ipſe faſcibus correptis Piſonem cum exercitu ad obtinendas duas Hiſpania mittere. "Ea re cognita ruſus in nonas Februarias conſilium cædis "diſtuleruit.

I cannot leave this Note without explaining the Reaſon why our Author ſo particularly characterizes *Torquatus*. This

you? After they had all together, with many others, gone to *Pompey*'s *Alban* Seat, to beg and entreat him not to abandon my Fortunes, which were ſo inſeparably connected with the Safety of the Republic, he ſent back the very ſame Perſons to you and your Collegue, with a View that you ſhould undertake the public Cauſe, and lay it before the Senate; declaring at the ſame Time, that he was unwilling to encounter an armed Tribune of the Commons, without public Authority. But if the Conſuls would undertake the Cauſe of their Country by a Reſolution of the Senate, that he would take up Arms.

DOST thou remember, thou Wretch, what your Anſwer was? An Anſwer ſo diſreſpect-ful,

This Gentleman ſeems by Nature to have been very paſſionate and teſty, ſo that it is no Wonder if he was ſooner fired than any of the others. We have a remarkable Inſtance of this in *Gellius*, *Lib.* i. 5. who tells us, that in a Pleading againſt *Hortenſius*, he ſaid he would no longer, as uſual, call him an Actor, but an *Actreſs*, and then called him a *Dancereſs*, and by the Name of *Dionyſia*, a celebrated Female Performer of that Kind. The Reader is to remark, that *Hortenſius* was of a quite different Character, being a very neat, ſpruce, airy Gentleman, perhaps a little approaching the finical. However, hearing himſelf ſo railed at, *Dionyſia!* ſaid he, (but ſo low that *Torquatus* could not hear him) why, ſays he, I had rather be called *Dionyſia*, than ſuch a ſlovenly, ill-mannered, untractable Brute as you *Torquatus* are. I will give the whole Paſſage in *Gellius*'s own Words. "Sed quum de cauſa Sullæ quæreretur, non "jam hiſtrionem eum eſſe diceret, ſed geſticulariam eam "Dionyſiamque eum notiſſimæ ſaltatriculæ nomine, ap-"pellaret: Tum voce molli atque demiſſa, Hortenſius, "Dionyſia inquit, Dionyſia malo equidem eſſe, quam tu "Torquate, Ἄμυστος, Ἀναφρόδιτος, ἢ Ἀποστιόνυσος.

ful, that it put all thoſe Perſons, but eſpecially *Torquatus*, into a Rage; *That you was not ſo well ſupported in your Conſulſhip as* Torquatus *and I were in ours. But there was no Occaſion for Arms, nor for a Struggle; that it was again in my Power to ſave my Country if I yielded; that if I oppoſed, a prodigious Slaughter muſt enſue. In ſhort, that if it came to the Puſh, neither you nor your Son-in-law, nor your Collegue, would abandon the Tribune of the Commons.* And ſhalt thou, thou avowed Traytor, ſay, that I ought to have a greater Enmity with *others* than with *you?*

I KNOW that *C. Cæſar*'s * Sentiments and mine differed as to public Meaſures: But yet, as I have often ſaid in this Aſſembly of him, he wiſhed, he propoſed, he invited and requeſted me to ſhare in his Conſulate, and in thoſe Honours which he communicated to his neareſt Relations; but I, from a Principle of a perhaps too ſtubborn Conſtancy, was not brought over to his Party; I was not fond of entering into the ſtricteſt Familiarity with a Man, whoſe even good Offices could not prevail with me to think in the ſame Manner with himſelf. It came to be tried under your Conſulate, and it was debated, whether his Acts of the Year before ſhould be *ratified* or *repealed.* What need I ſay more? If he imagined there was ſo much Courage and Vigour

* *C. Cæſar's Sentiments and mine differ'd.*] That they had done ſeveral Times; particularly with regard to dividing the *Campanian* Lands, and the Puniſhment of *Catiline*'s Conſpirators.

gour in my ſingle Perſon, that his Acts would fall to the Ground if I had oppoſed them; why ſhould I not pardon him for preferring his own Safety to mine?

BUT I omit what is paſt, as *Cn. Pompeius* undertook my Defence with all his Zeal, all his Labour, at the Danger of his Life, as he made a Tour round the municipal Cities in my Favour, implored the Friendſhip of *Italy*, held frequent Conſultations with *Pub. Lentulus*, the firſt Mover of my Return, ſhewed his declar'd determined Senſe in the Senate, and in Aſſemblies profeſſed himſelf not only a *Champion* for my *Safety*, but a *Petitioner* for my *Perſon*, as he underſtood that *C. Cæſar* had great Intereſt, as he knew him to be no Enemy of mine, he join'd him as the Aſſociate and the Aſſiſtant in all the Services he did me.

YOU now ſee, I had Reaſon not only to be a *Foe*, but an *Enemy* to thee, and not only to retain no *Reſentment*, but to have a *Friendſhip* with thoſe Perſonages whom you pointed out. One of them I ſhall never forget, to have been a Friend equally to me and to himſelf; the other, I ſhall ſoon forget, to have been more a Friend to *himſelf* than to *me*. In ſhort, the Caſe is ſuch, that brave Men,* tho' they fight Hand

* *Brave Men.*] There is a Sentiment very like this in the Seventh Book of the *Iliad*, which is put into the Mouth of *Hector*.

Now Martial Law commands us to forbear;
Hereafter we ſhall meet in glorious War;

Some

Had to Hand; yet they lay aſide the Rancour of Enmity with their Encounter and their Arms. But it was not in *Cæſar*'s Power to hate me, even while we were at Variance together. *True Courage* has this *Quality*, with even the Shadow of which you are unacquainted; That its very Appearance and Beauty ſhining, tho' in an Enemy, give Pleaſure to the Brave.

AND indeed, Fathers Conſcript, from my Soul I will tell you what I think, and what I have often declared in your Hearing. Tho' *C. Cæſar* had never been my Friend; tho' he had always been exaſperated againſt me; tho' he had deſpiſed my Friendſhip; tho' he had declared himſelf my implacable, my unrelenting Enemy; yet after the glorious Actions he has performed, and continues daily to perform, I could not help being his Friend. I am not for throwing in or oppoſing * the Rampart

Some future Day ſhall lengthen out the Strife;
And let the Gods decide of Death or Life!
Since then the Night extends her gloomy Shade,
And Heaven enjoins it, be the Night obey'd.
Return, brave *Ajax*, to thy *Græcian* Friends,
And joy the Nation whom thy Arm defends;
As I ſhall glad each Chief, and *Trojan* Wife,
Who wearies Heaven with Vows for *Hector*'s Life.
But let us, on this memorable Day,
Exchange ſome Gift, that *Greece* and *Troy* may ſay,
"Not Hate, but Glory, made theſe Chiefs contend,
"And each brave Foe was in his Soul a Friend.

* *I neither throw in nor oppoſe.*] I will ſet down all the Original of the whole of this Paſſage, and will intirely leave it with my Reader, whether I have hit upon the Senſe,

part of the *Alps*, to the Invaſions and to the Incurſions of the *Gauls*, nor the Ditch of the *Rhine*, ſo full of Whirpools, to the barbarous *German* Nations; for his Command ſupplies all thoſe Fences: It is owing to him, that were the Mountains level, and the Rivers dried up, *Italy*, though left defenceleſs by Nature, would in his Victories and Exploits, have an invincible Barrier. But as he wiſhes me well, as he loves me, as he honours me with his higheſt Eſteem; ſhall you divert the Force of my Quarrels with you, into Enmity with him? Shall you thus by your criminal Intrigues make the Wounds of your Country bleed a-new? As you well knew the Connection betwixt *Cæſar* and me, you made that your Screen, when you aſked me, tho' with trembling Lips, why I did not accuſe you? As for my Part, *never ſhall I rid you* * *of that Anxiety, by denying it to you*; yet I am to conſider † what a Load of Solitude I, who am a moſt

Senſe, after acquainting him, that the Commentators ſeem to have given it up. "Cujus ego imperio non Al-
" pium vallum contra adſcenſum tranſgreſſionemque Gal-
" lorum, non Rheni Foſſam Gurgitibus illis redundantem,
" Germanorum immaniſſimis gentibus objicio & op-
" pono.

* *Never ſhall I rid you.*] We are told by *Aſconius*, that this is a Verſe of *Accius* the Poet. Our Author ſeems to have been particularly fond of it, having quoted it upon another Occaſion.

† *I am to conſider.*] It is very ſuprizing, if *Piſo* was guilty of the fourth Part of what is alledged againſt him by our Author, that he was not impeached. I am therefore very apt to believe, that there is a great deal of Exaggeration in the whole; eſpecially when we conſider the noble Part, which, by our Author's Confeſſion, this very *Piſo* acted after *Cæſar*'s Death. *See Vol.* II. *p.* 183, 184.

a moſt tender Friend, muſt thereby impoſe upon one who is encumber'd with ſuch weighty Affairs of State, and ſo important a War. Yet do I not deſpair, notwithſtanding the Indolence of our young Gentlemen,* notwithſtanding their Remiſſneſs in the noble Purſuit of public Honours; that there are ſome amongſt them, who will not be averſe from ſtripping the deſpicable Carcaſe of theſe Conſular Spoils, eſpecially as the Criminal is ſo fallen, ſo feeble, and ſo enervate a Wretch: *I mean you*, whoſe Conduct was ſuch as diſcovered that you was afraid of appearing unworthy the Favour you got, if you did not copy exactly after your Conſtituent.

WELL, do you imagine that I have but ſlightly traced the Stains of your Government, and the Ravages of your Province? No; It is not a cold Scent † upon the Track of your Footſteps; for I have followed you warm thro' all your Doublings into your very Haunts and Wallowing-Places. I mark'd your earlieſt Villainies after your Arrival, when, after receiving a Sum of Money from the *Dyrrhachians*, ‡ for murder-

* *The Indolence of our young Gentlemen.*] I have, on other Occations, taken Notice, that the Impeachment of eminent Offenders, and bringing them to the Bar of their Country's Juſtice, was one of the ſureſt Steps in *Rome* by which young Gentlemen could riſe to the higheſt Honours.

† *It is not a cold Scent.*] This Paſſage is a Metaphor taken from Boar-hunting, inimitably beautiful in the Original.

‡ *Receiving a Sum of Money from the* Dyrrhachians.] It is ſurprizing, that a civilized State, ſuch as that of *Rome*

murdering *Plator*, who entertained you, you demoliſhed the Houſe of the very Man, whoſe Blood you had ſet to Sale: And all this, after receiving from him ſome muſical Slaves, and other Preſents, and after you had encouraged him while under great Terrors and Perplexities; nay, had ordered him by the Faith you plighted, to come to *Theſſalonica*:† Nor did you put him to the Death that is preſcribed by our Uſages,* while the unhappy Victim begg'd to yield his Neck to the Axes of his Gueſt; for you ordered the Phyſician, whom you carried along with you, to open the Veins of your wretched Entertainer. This Murder of *Plator* introduced you to that of his Companion *Pleuratus*,

Rome was, ſhould have no expreſs Law till near 700 Years after its Inſtitution, againſt the Crime here mentioned. It is true, that it was propoſed immediately after the barbarous Proſecution ſet on foot by *Sylla*; but even in the intermediate Time, one is apt to wonder what had become of all the great Virtues of the *Romans*, who were ſo much praiſed by our Author, that they did not ſooner put a Stop to this Proceeding. The Law I ſpeak of is the *Lex Julia* paſſed by *Cæſar*, which with a few Alterations was afterwards enacted by *Auguſtus*.

† *Theſſalonica*.] This was a City of *Macedonia*, and formerly the Reſidence of the Proconſuls.

* *Death preſcribed by our Uſages*.] I don't know from whom the *Romans* got that Method of putting People to Death, which was ſo much practiſed after the Days of the Republic, I mean that *of opening the Veins in a warm Bath*, and which is probably the ſame that is mentioned here; but the uſual Way of putting State Criminals to Death, was firſt by ſcourging them with Rods, and then cutting off their Heads. I will only take Notice, the *Venarum inciſio*, the opening of the Veins, was of two Sorts: The one was *immediately mortal*, *Extremum Supplicium*; the other was only *ignominious*.

ratus, whom, tho' bending to the Grave with Years, you ſcourged to Death. You likewiſe cut off the Head of *Rabocentus*, a leading Man among the *Beſſians*, ‡ after you had ſold yourſelf to King *Cotus* * for 60,000l. and this you did after *Rabocentus* came as an Ambaſſador to your Camp, and had promiſed you large Reinforcements of Auxiliaries, both of Horſe and Foot; nor did you ſell *him* only to this King *Cotus*, but with *him* the other Deputies who accompanied him. You waged an unjuſt and a cruel War againſt the *Denſeletæ*, a Nation which was always ſubmiſſive to our Government, and protected the Prætor *C. Sentius*, in that univerſal Rebellion of all the Barbarians in *Macedonia*; and when you might have employed them as moſt faithful Allies, you choſe to have them imbittered Enemies. By this Means, you rendered thoſe who had always before been the Protectors of *Macedonia*, its Plunderers and Deſtroyers. They interrupted the Collection of the Revenues; they ſeized upon our Cities; they laid waſte our Lands; they forced our Allies into Slavery; they carried off their Slaves; they drove away their Cattle; they obliged the *Theſſalonians* when they found the City no longer tenable, to fortify themſelves in the Citadel.

By

‡ *The* Beſſians.] This People lived in the Province to which *Piſo* was ſent, as did the *Denſeletæ*.

* *King* Cotus.] *Cotus* or *Cotys*, ſeems to have been a Family Name belonging to the Kings of *Thrace*; in the ſame Manner as *Arſaces* to the *Perſians*; *Ptolemy* to the *Egyptians*.

By you, the Temple of *Jupiter Urius*,* the moſt ancient and holieſt Temple among the Barbarians, was plundered; the Gods exacted the Atonement of your Crimes upon the Perſons of our Soldiers; theſe were all viſited with one Kind of Diſeaſe,‡ which was fatal to every one tainted: Therefore nobody doubted but that the violated Rites of Hoſpitality, the Murder of Ambaſſadors, the harraſſing our peaceful Allies by an unjuſt War, and the plundering of Temples had produced this terrible Calamity. In this ſmall Sample of thy Villainies and Cruelty, you diſplay the Whole.

SHALL I now explain at large thy Avarice, which is complicated with numberleſs Crimes? I will ſuccinctly touch upon thoſe Inſtances,

* *The Temple of* Jupiter Urius.] This Temple made a great Noiſe in Antiquity. There are a great many Readings and Conjectures about it amongſt the Commentators. We are told by *Arrian*, that the Temple Ουριε lay betwixt the *Thracian Boſphorus*, and the City of *Trabizond*. The Reader will obſerve, that this *Jupiter Urius* was not the *Jupiter Umbriciter* of the Ancients, who preſided over Showers, but the Deity who ſent favourable Winds to Sailors. The *Romans* called him *Jupiter Imperator*, without any Regard to any *Greek* Name, and is the ſame who is mentioned in the fourth Book againſt *Verres*. "Quid? "Signum Paeanis ex æde Æſculapii præclare factum, ſa"crum & religionem, non ſuſtiliſti? Quid? Ex æde Li"beri ſimulacrum Ariſtæi non tuo imperio palam ablatum "eſt? Quid? Ex æde Jovis religioſiſſimum ſimulacrum "Jovis Imperatoris, quem Græci *Urion* nominant, pul"cherrime factum, nonne abſtuliſti?

‡ *Theſe were all viſited with one Kind of Diſeaſe.*] This is perfectly agreeable to the Heathen Mythology, and is an Article in Religion which has always a very good Effect both in Oratory and Poetry, and has been very much employed in both.

which are moſt notorious: Did you not leave at Intereſt in *Rome* 25,000*l.* you received from the Treaſury on the Article of Plate,* at which you valued my Head? When the People of *Apollonia* had given you 40,000*l.* at *Rome*, to excuſe them from paying their Arrears, did you not even deliver up † *Fufidius* a *Roman* Knight, a Man of the greateſt Accompliſhments, into the Hands of the Debtors? When you ſent your Troops into Winter-Quarters with your Lieutenant-General, did you not entirely ruin thoſe wretched Cities into which they went, and which were not only plundered of their Effects, but even ſuffered the moſt infamous Treatment from luſtful Abuſe? What Rule did you obſerve in the Valuation,‡ of

* *On the Article of Plate.*] Orig. *Vaſarii nomine.* Tho' I have tranſlated this Paſſage according to the common received Notion; yet from the Connexion I am not quite ſatisfied but that *Muretus* may be in the right, who thinks that the *Vaſarii nomen* was no other than a Depoſite to be paid in caſe of performing ſuch and ſuch Articles. It is therefore but juſt to give the Reader the Words. "Quaſi "promiſſum a vade P. Clodio ſi meam illi Salutem tradidiſ- "ſes. Vas eſt qui vadimonium pro altero promittit; inde "vaſarium puto communiter ad omnia, quæ promiterenter "eſſe deductum."

† *Did you not even deliver up.*] *Addice debitorem* was a common Saying among the *Romans*, to ſignify the Perſon of a Debtor being delivered up to his Creditor for the Payment of his Debts. Our Author here with a great deal of Wit and Judgment inverts the Expreſſion. The Dauphin's Commentator, with his uſual Sagacity, tells us, that *Cicero* ſays this; becauſe that when he ſent his Soldiers into Quarters, he quarter'd ſome of them in *Fufidius*'s Houſe.

‡ *The Valuation of Corn.*] The *Roman* Magiſtrates in their ſeveral Provinces had a Power of converting at a certain Valuation,

of the *free Gift*, if that can be called a *free Gift*, which was extorted by Violences and Menaces. This was what moſt of them equally felt, but the *Bæotians*,* the *Byzantians*,† thoſe of the *Cherſoneſus* ‡ and *Theſſalonica*, in a more ſignal Manner. You was the ſole Proprietor, the Valuer, and the Retailer; in ſhort, you kept in your own Hands a Monopoly of all the Corn in the Province for three Years.

NEED I to open your Proceeding in criminal Trials; your Compromiſes and Bargains with

luation, the Corn, which their ſeveral Provinces were taxed with, into Money. Our Author, in another Paſſage or two, tells us, that this Converſion was not at firſt deſigned for the Advantage of the Government, but for the Eaſe of the Farmers; but that it became at laſt ſo much abuſed by covetous Governors, that they exacted intolerably upon the Huſbandmen, who were obliged to deliver it into the public Granaries, by eſtabliſhing thoſe Granaries in Places where it was very difficult for the latter to tranſport it; therefore it became a Source of Oppreſſion in the Provinces. "Hæc æſtimatio, "*ſays he*, nata eſt, Judices, non ex Prætorum aut Conſu-"lum, ſed ex Aratorum atque Civitatum commodo. Nemo "enim fuit initio tam impudens, qui, cum frumentum de-"beretur, pecuniam poſceret, certe hoc ab Aratore pri-"mum eſt profectum, aut ab ea civitate cui imperabatur, "cum aut frumentum vendiſſet, aut ſervare vellet, aut in "eum locum, quo imperator, portare nollet, petivit in "beneficii loco, & gratiæ, ut ſibi pro frumento, quanti "frumentum eſſet, dare liceret. Secuti ſunt avariores Ma-"giſtratus, &c. Inſtituerunt ſemper ad ultima ac difficilli-"ma loca apportandum frumentum imperare, ut vecturæ "difficultate, ad quam vellent æſtimationem, pervenirent."

* *The* Bœotians.] Theſe were a People of *Greece*, their Capital was *Thebes*.

† *The* Byzantians.] The City of *Bizantium* lay in *Thrace*, and is the modern *Conſtantinople*.

‡ *Cherſoneſus*.] This was the *Thracian Cherſoneſus* which lay near the *Euxine* Sea.

the Accuſed ‖ your heavy Penalties, and your arbitrary Acquitals †? I will give you Leave, when you ſhall perceive I am acquainted with any of thoſe Heads, to recollect how many and how various your Crimes are in each Kind. How! do you remember any Thing of that Magazine of Arms, when driving together all the Flocks of a whole Province, under the Article of Skins * you renewed all your Family Trade? For you had, while an over-grown, lubberly Boy, perceived in the *Italian* War ‡ your Houſe filled with the Profit of that Trade, while your Father was Overſeer of the Manufacture of Arms. How! Do you remember that you render'd a whole Province tributary to your

‖ *And bargains with the Accuſed.*] This was a moſt heinous Offence amongſt the Antients; and that too very juſtly. We are told by *Plutarch*, that at *Thebes* their Judges were painted as having no Hands, and therefore not to be prevailed with to condemn or abſolve from mercenary Views.

† *Your arbitrary Acquitals.*] *Libidinoſiſſimas Liberationes.* I don't underſtand what *Grævius* means here by ſaying, that *Abramius* does not underſtand this Expreſſion. I think his Explanation of it is pretty much the ſame with that of *Græ-vius*, only it ſeems to be more probable and more agreeable to the common Practice of Mankind.

* *Under the Article of Skins.*] *Turnebus* tells us here, that theſe Skins were not deſigned for the Manufacture of Arms, but for covering the Booths and Shops, in which that Manufacture was carried on. I am apt to think, that by the *Armorum Officina* here is meant no more than a Trade or a Traffick in Arms, which *Piſo* drove to his own private Advantage, when he forced the People to furniſh him with thoſe Skins. It ſeems *Piſo*'s Father had been Overſeer of the Manufacture of Arms.

‡ *The* Italian *War.*] This was the War which the People of *Italy* raiſed after the Death of *Livius Druſus*, that they might be entitled to the Freedom of Suffrages in *Rome*.

ur Slaves, who acted as Officers of the Reve-
ıe, by impoſing a certain Tax ‡ upon the Ex-
rtation of all vendible Commodities.
How! Do you remember how you openly
t to Sale *Military Commiſſions*?|| How Poſts of
onour in the Army were diſpoſed of by the
oſt pitiful of your Slaves? How, every Year
your Government, the Soldiers Arrears* were
id by the Cities, in public Offices erected for
at very Purpoſe? What ſhall I ſay of your
arch towards an Attempt upon *Pontus*?† Of
e abject, poor Spirit you diſcovered, when,
on your hearing that *Macedon* was declared a
ætorian Province,§ you fell down motionleſs

‡ *A certain Tax.*] This Tax was called *Portorium*, and
ıſt have been extremely heavy upon the poor People of
ovinces, as it was a Diſcouragement to all Induſtry and
anufactures. It ſeems to have been levied much in the
ne Manner as our Exciſe; as they were obliged to pay
Permits for tranſporting the Commodity from one Place
another.

|| *Set to Sale* Military Commiſſions.] We here ſee the
le of Commiſſions charged as a Crime upon a *Roman*
overnor, becauſe the *Roman* Officers roſe by their Merit
the Army.

* *The Soldiers Arrears.*] This if true was another very
famous Practice of *Piſo*. The Money for that Purpoſe
as iſſued out of the Treaſury, which *Piſo*, no doubt, put
his own Pocket, and levied upon the People of his
ovince.

† *Your March towards an Attempt upon* Pontus.] This is
very obſcure Paſſage, and we have nothing in Hiſtory to
arrant the Fact. I am therefore apt to take it for an ora-
rical Exaggeration of an improbable Charge. For had it
en founded on Fact our Author would, no doubt, have
ken care to have enforced it at large.

§ *That* Macedon *was declared a* Prætorian *Province.*]
his was done before the Year of *Piſo*'s Government was
it, and the Prætors for the Year were ſent thither.

and lifeleſs, not only becauſe you had got Succeſſor, but becauſe *Gabinius* had got non Of your rejecting a Quæſtor,‖ who had ſerv as Ædile? The ableſt and the firſt § among yc Lieutenant-Generals all of them wronged? Tl brave *M. Bæbius* put to Death by your Order Of your giving yourſelf again and again up loathſome, melancholy, mournful Deſpondenc in reflecting upon the doubtful, deſperate, Sta of your Affairs? Of your ſending ſix hundred our Friends and Allies, for the Uſe of that * *Prieſt* in his Shews of wild Beaſts?‡

Cor

‖ *Of your rejecting a Quæſtor.*] This was no Crir becauſe if the Quæſtors were not agreeable to their P conſuls, the latter had a Power of rejecting them. As the Relation betwixt the Duty of a Quæſtor and that c Prætor or Proconſul, See the Oration againſt *Cæcil.* Vol. I.

§ *The ableſt and the firſt.*] I do not know by w means the Word *Turpiſſimum* has here crept into the Ori nal, and thereby miſled *Hottoman* to ſuppoſe that he pref red a very worthleſs Fellow, one of his own Lieutenar to the Poſt of Quæſtor. The Dauphin's Commentat with great Judgment, has left out *Hottoman*'s Reading the Text, but given us his Meaning in the Notes.

* *Lay Prieſt.*] I hope this Tranſlation will not thought ludicrous after informing my Reader that it is li ral. Orig. *Popularis Sacerdos.* He means *Clodius*, a alludes to the well known Story of his profaning the h Myſteries of the Goddeſs *Bona.* He uſes the ſame Expr ſion in his Oration for *Sextus.*

‡ *Shews of wild Beaſts.*] Theſe were the Shews *Cloa* exhibited when he was Cural Ædile.

Grævius here gives us a very ſenſible and accurate R mark which may be of great Uſe to the Reader. Th was, ſays he, a Difference betwixt *Amici* and *Socii.* *Am* were the People who were governed by their own Law and had only a Fœderal Union with the *Romans.* Th *Socii*, on the other hand, were real Slaves; ſo that *Mar*

COME on; do you remember, while you vere almoſt quite ſunk under the Weight of our Grief and Affliction at your Removal, how ou firſt retired to *Samothracia*,* and flew to *baſus*, with thoſe delicate Dancers of yours, nd with thoſe beautiful lovely Brothers, *Autoulus*, *Athamas* and *Timocles*? How, after you vithdrew from thence, you lay in Affliction for ome Days at the Country-Seat of *Eucadia*, the Vife of *Exegiſtus*: And in what a ſneaking, itiful Manner you ſtole from thence to *Theſſanica* in the Night, without any Body's Knowedge? How, when unable to bear the Showers f Tears and the Thunder of Reproaches which net you, you fled to *Beræa*, a remote Town, when after your Mind was ſwell'd with the Reort and the Imagination, that *Q. Ancharius* was ot to ſucceed you, in what Manner, you Ruffian, did you renew all your former Inſolence nd Debauches?

I OMIT the Money for the Triumphal Crown,† which tortur'd you ſo long while you ometimes wanted to take, and ſometimes not o take it. For your Son-in-Law's Statute had orbid any ſuch Crown to be either decreed or

 accepted,

ius is miſtaken in ſaying, that there was a Difference bewixt the *Stipendiarii* and the *Vectigales*, becauſe they both aid Tribute. But I find no ſuch Diſtinction in *Manutius*. He makes indeed a Difference, and perhaps a wrong one, etwixt the *Stipendiarii* and *Socii*: For, he ſays, the *Socii* aid Tribute and the *Stipendiarii* none.

* *Samothracia* and *Thaſus*.] Were Iſlands in the *Ægean* Sea.

† *The Money for the Triumphal Crown.*] This had uſed o be a Perquiſite of the *Roman* Governors, but was cut off y the *Julian* Law. It ſeems by this Time the Laurel Crowns had worn out of Faſhion at *Rome*.

accepted, but in Cafes where a Triumph voted. Having however ſwallow'd down tha Money, and being no more able to diſgorge than you was able to diſgorge the Hundre Talents belonging to the *Achæans*;* you onl changed the Denomination of the Purpoſe t which that Money uſed to be appropriated. omit the Letters Patent diſperſed all over th Province. I omit the Number of Private Veſſels and the Amount of their Prizes. I om the Account of Corn that was exacted and e torted. I omit the People's and every Indiv dual's being deprived of their Liberty, tho' the had been expreſly entitled to Privileges; a which Oppreſſions were poſitively provided a gainſt by the *Julian* Law.

THOU Scourge, thou Fiend of our Allies, your Departure you ruined unhappy *Ætolia*,† which, far removed from the *Barbarians*, ſeem' to be emboſom'd in Peace, being ſeated almoſ in the very Heart of *Greece*. You confeſs'd, b what you ſaid a while ago, that the noble an opulent Cities of *Arſinoe*,‡ *Stratum*,‖ and *Nau pactum*,§ were taken by the Enemies. Bu who were thoſe Enemies? Why the very Per ſons whom, upon your firſt Arrival, while yo loitered at *Ambracia*,* from the Towns of th *Agræans*

* *The hundred Talents belonging to the* Achæans.] Thi Paſſage in the Original is very dark if not unintelligible.
† *Ætolia.*] This was a ſmall Country in *Achaia*.
‡ *Arſinoe.*] A Town of *Ætolia*.
‖ *Stratum.*] A City of *Acarnania* in *Thrace*.
§ *Naupactum.*] A City of *Achaia*.
* *Ambracia*] A City of *Epirus* now *Larto*.

Agræans, and the *Dolopeans*,‖ you forced to bandon their paternal Altars and to relinquiſh heir native Homes. Upon this Event, after he ſudden Ruin of *Ætolia* crown'd all your ormer deſtructive Exploits, your moſt illuſtri- ous Excellency diſmiſs'd your Army; and choſe o undergo the ſevereſt Cenſure due to ſo deteſ- able an Action, rather than take an Account of he remaining Number of your Troops.

BUT that you may clearly view the Similari- y of two *Epicureans* † in their military Capaci- y; *Albucius*, after triumphing in *Sicily*, was condemn'd at *Rome*. *Piſo* here, in hourly Ex- pectation of a like Judgment, had rear'd Tro- phies in *Macedon*. Thus this Burleſque upon all Generals,‡ to the eternal Diſgrace of his Fa- mily and Name, raiſed thoſe Monuments which all Nations deſign'd as the Badges, and the Evidences of warlike Glory and military Suc- ceſs, to remain as the fatal Proofs of our loſt Ci- ies, of our ſlaughter'd Legions, and of our Pro- vinces ſtript of their Defence, and the Rem- nants of our military Force; And, as if he had deſign'd an Inſcription to be engraved upon the Baſis of his Trophies, when he came to *Dyrrhachium* * on his Retreat, he was beſieged by thoſe very Soldiers whom he told *Torquatus*, little time ago, he had generouſly diſmiſs'd from his Senſe of their Services. After he had

ſworn

‖ *Agræans* and *Dolopeans*.]- The former were Inhabitants f *Ætolia*, the latter of *Acarnania*.

† *Two* Epicureans.] *Albucius* and *Piſo*.

‡ *This Burleſque upon all Generals*:] Orig. *Prepoſterus mperator*.

* *Dyrrhachium*] Now *Durazzo* in *Macedon*.

ſworn to them that he would pay to them nex Day all their Arrears, he ſhut himſelf up a Home. From thence, in the dead of Nigh with Sandals on his Feet,† and the Dreſs of Slave on his Back, he went on board a Shi ſtood off from *Brunduſium*, and ſteer'd for th remoteſt Coaſt of the *Adriatic* Sea.

MEAN while the Soldiers at *Dyrrhachiun* imagining he was ſtill in the Houſe, beſet it and thinking that the Fellow was concealin himſelf, ſet Fire to all its Quarters. The Inha bitants of *Dyrrhachium*, terrified at this, in formed them that their Emperor was run awa by Night in his Sandals. But the Soldier overthrew, knocked down, beat in pieces, an ſcatter'd about, that Statue, which was ſo ver like him, and which it was his Pleaſure ſhoul ſtand in their moſt public Place, leſt the Me mory of ſo ſweet a Gentleman ſhou'd be extin guiſhed. Thus they wreak'd upon his Imag and Effigies that Vengeance which he had draw upon his Perſon.

HAVING ſaid thus much, I make no doubt but when you perceive I am acquainted wit thoſe flagrant Facts, that you will imagine have not heard of your infamous Villanie which are loſt in the Multitude of your Crime You need not to exhort me; you need not pro voke me; it is ſufficient if I have the Hint But in this I ſhall obſerve no other Direction but what are preſcribed to publik Conve niency

† *Sandals on his Feet.*] This was thought very opprobr ous among the *Romans*, the Sandals being a *Greek* Wear.

niency, which to me ſeems now nearer at Hand than ever you imagined. Can'ſt thou ſee, can'ſt thou perceive what Kind of Judges we ſhall have after paſſing the Law for the Qualifications of Judges * for Trials? It will not then be in the Power of every Man, who has a Mind, to be call'd to the Bench; or to be excuſed, if he ſo pleaſes: That is an Order on which no Man can intrude, and from which no Man ſhall be arbitrarily exempted: Ambition ſhall not there procure Intereſt, nor Hypocriſy cloak Guilt: Judges ſhall then be choſen ſuch as the Law itſelf, and not ſuch as the Villainy of Mankind, ſhall chuſe. When Matters ſhall be upon this Footing, believe me, you ſhall have then no need to cloak your Dread of an Impeachment under the Shew of provoking it. The Nature of the Accuſation itſelf, and publi Conveniency ſhall invite or diſſuade either myſelf, who am backward to ſuch a Buſineſs, or ſomebody elſe.

AND give me Leave to repeat it; I am not of Opinion with moſt Men, that the ſame Puniſhments equally ſerve for all Mankind, ſuch as Condemnation, Baniſhment, and Death: In ſhort, that which may happen to the innocent, the brave, the wiſe, the good Man, or a worthy Patriot, in my Eyes, deſerves not the Name of Puniſhment. The Cenſure

* *The Law for the Qualification of Judges.*] This was a Law promulgated by *Pompey*, by which the Judges were choſen out of all the three Orders of the People of *Rome*, but were obliged to have a certain Qualification in Point of Property: And likewiſe were obliged to ſerve when ſummoned.

Cenſure which you have incurred, was the Lot of *Pub. Rutilius*,* a Man whom *Rome* regarded as the Mirror of Innocence; but to me the Puniſhment decreed to *Rutilius* ſeem'd to fall rather upon the Judges and his Country than upon him. *L. Opimius*, who, when Prætor and Conſul, had delivered the State from moſt imminent Dangers, was driven from his Country; but the Penalty of Guilt and the Stings of Conſcience did not fall upon him who ſuffer'd, but upon thoſe who inflicted, the Injury. On the other Hand, *Catiline* was twice acquitted: Even the Wretch who gave you your Province eſcaped, tho' with his Luſt he had defiled the Shrines of the deified *Bona*. Was there a Man in this great City who thought that this clear'd him of his inceſtuous Crime, or that they who pronounced the Verdict were not equally guilty.

AM I to wait till ſeventy-five Tablets † are diſtributed in your Cauſe, while all Ranks, Ages, and Conditions have long ago pronounced you guilty? For is there a Man who thinks that you deſerve the leaſt Regard, the ſmalleſt Honour, or even common Civility? All Mankind pray to avert the Memory of your Conſulſhip, your Actions, your Manners, your Looks, and, in ſhort, your Name, from this State. The Lieutenant

* *Pub. Rutilius.*] This is the ſame Gentleman upon whom our Author beſtows ſo fine Encomiums in other Part of his Writings, particularly ſee Page 105, 106, and 107 of the Tranſlation *de Oratore*.

† *Seventy-five Tablets.*] This was the Number of Judges appointed by *Pompey*'s Law.

tenant Generals who accompany'd you avoid you; The Military Tribunes are your Foes; The Centurions, and the Remains, if any yet emain, of your great Army, whom you did not diſmiſs but turn adrift, hate you, and pray for Plagues and Curſes on your Head. *Achaia* exhauſted, *Theſſaly* harraſs'd, *Athens* torn to Pieces, *Dyrrhachium* and *Apolonia* demoliſhed, *Ambracia* pillaged, the *Partheni* and the *Bulienſes* abuſed, *Epirus* exterminated, the *Locrians*, the *Phocians*, and the *Bæotians* burned out of their Dwellings, the *Acarnanians*, *Amphilochians*, the *Perrhebians* and the *Athamanians* ſold: *Macedon* given up to the Barbarians; *Ætolia* loſt; the *Dolopeans* and the Inhabitants of the neighbouring Mountains ſtript of their Cities and Lands, together with the *Roman* Citizens, who were trafficking in thoſe Parts, are all ſenſible that in your ſingle Perſon they were viſited with a Plunderer, an Oppreſſor, a Robber, and an Enemy,

YOUR Self-Conviction ſwells your Judiciary-Condemnation, and adds Weight to thoſe numerous, heavy Sentiments: Your ſtolen Approach, your clandeſtine Journey through *Italy*, your Entry into this City without a Friend to attend you, without ſending any Letters to the Senate from your Province: No Congratulation upon your three Summer Campaigns: Your not being ſo much as mention'd for a Triumph: Your not daring to diſcloſe your Actions, nor even to name in what Places you have been. When you brought back your withered Laurels from that Source and Seminary of Triumphs,

when

when you tore these off and left them at the Gate, Then it was that you yourself pronounced your own formal Sentence of Condemnation.

BUT tho' you have performed nothing worthy of Honour, where is your Army? where have you lavished your Money? what is become of your Command? what of your Province? that most fruitful Source of Thanksgivings and Triumphs. But if you had any Glimmerings of Hope; if you entertained those Thoughts, which it's plain you did, from that Appellation of Emperor, from your laurel'd Fasces, and from those disgraceful ridiculous Trophies; who is more wretched, who is more miserable than you? since when absent you did not write to the Senate, nor when present dare maintain that you have served your Country. Shall you presume to tell me, whose Opinion it has always been, that no Man's Fortune is weighed by *Events*, but by *Actions*; that the Fate of our Glory does not depend upon the Tablets of a few Judges, but upon the Sentiments of all our Fellow-Citizens? Do *you* imagine, that *you* appear uncondemned, *you* whom our Allies, whom our Confederates whom free Nations, whom Tributaries, whom Traders, whom the Officers of the Revenue whom the whole State, whom Lieutenant-Generals, whom military Tribunes, whom those Remains of our Army who have escaped from the Sword, from Pestilence, and from Famine, think richly deserving of every Torture? You who never can meet with the least Forgiveness for your execrable Crimes from the Senate,

from

om the *Roman* Knights in the City, or in
aly! The Man who hates himſelf, who is
raid of every Body elſe, who dare truſt his
uſe to no Man, and ſtands condemned by
s own Judgment. Never did I thirſt for your
lood, never did I ſolicite againſt you, the Ex-
ution awarded by the Nature, and by the
orms of our Laws, which may be equally the
ot of the Virtuous and the Wicked; but I
ſh'd to ſee what I have ſeen, I wiſh'd to ſee
u abject, contemptible, deſpicable in the Eyes
others, deſperate and abandoned in your
n, ſtaring ghaſtly round you, ſtarting at
ery Breath of Noiſe, diſtruſtful of your Cir-
mſtances, without a Voice, without Free-
n. without Authority, without any Marks
onſular Dignity, in Horror, in Agonies,
d fawning upon all you met. Therefore, if
hat you dread ſhould be your Fate, I will not
diſpleaſed at what may happen; but if Ven-
ance ſhould be ſlow, yet will I enjoy your pre-
t Infamy. With equal Pleaſure will I ſee you
mbling at the Dread of an Impeachment, as
would to ſee you at the Bar of Juſtice; nor
uld I more rejoice to ſee a little external De-
ment ſtaining your Dreſs,* than to perceive
delible Infamy attending your Perſon.

little Defilement ſtaining your Dreſs.] This alludes the *Romans*, when impeach'd, wearing very mean, dirty

F I N I S.